



## **ORDINARY COUNCIL MEETING 22 November 2011 Table of Contents**

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## **ORDINARY COUNCIL MEETING**

**Minutes of the Ordinary Meeting of the City of South Perth Council  
held in the Council Chamber, Sandgate Street, South Perth  
Tuesday 22 November 2011 at 7.00pm**

**1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

The Mayor opened the meeting at 7.00pm and welcomed everyone in attendance. She then paid respect to the Noongar peoples, past and present, the traditional custodians of the land we are meeting on, and acknowledged their deep feeling of attachment to country.

**2. DISCLAIMER**

The Mayor read aloud the City's Disclaimer.

**3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER**

**3.1 Activities Report Mayor Doherty / Council Representatives**

The Mayor advised that the Council Representatives Activities Report for the month of October 2011 is attached to the back of the Agenda.

**3.2 Public Question Time**

The Mayor advised the public gallery that 'Public Question Time' forms were available in the foyer and on the website for anyone wanting to submit a written question. She referred to clause 6.7 of the Standing orders Local Law 'procedures for question time' and stated that it is preferable that questions are received in advance of the Council Meetings in order for the Administration to have time to prepare responses.

**3.3 Audio Recording of Council meeting**

The Mayor requested that all mobile phones be turned off. She then reported that the meeting is being audio recorded in accordance with Council Policy P673 "Audio Recording of Council Meetings" and Clause 6.16 of the Standing Orders Local Law 2007 which states: *"A person is not to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member"* and stated that as Presiding Member she gave permission for the Administration to record proceedings of the Council meeting.

**4. ATTENDANCE**

Present:

Mayor Doherty (Chair)

Councillors:

I Hasleby	Civic Ward
V Lawrance	Civic Ward
G W Gleeson	Como Beach Ward
S Hawkins-Zeeb	Manning Ward
C Cala	McDougall Ward
P Howat	McDougall Ward
R Grayden	Mill Point Ward
B Skinner	Mill Point Ward
F Reid	Moresby Ward
K Trent, RFD	Moresby Ward

Officers:

Mr C Frewing	Chief Executive Officer
Mr S Bell	Director Infrastructure Services
Mr M Kent	Director Financial and Information Services
Ms V Lummer	Director Development and Community Services
Ms D Gray	Manager Financial Services
Mr R Kapur	Manager Development Services (until 8.23pm)
Mr P McQue	Manager Governance and Administration
Mr R Bercov	Strategic Urban Planning Adviser
Ms G Nieuwendyk	Corporate Support Officer
Mrs K Russell	Minute Secretary

Gallery

There were 12 members of the public and 1 member of the press present.

**4.1 Apologies**

Cr G Cridland Como Beach Ward (bereavement)

**4.2 Approved Leave of Absence**

Nil

**5. DECLARATION OF INTEREST**

*Conflicts of Interest are dealt with in the Local Government Act, Rules of Conduct Regulations and the Administration Regulations as well as the City's Code of Conduct 2008. Members must declare to the Chairperson any potential conflict of interest they have in a matter on the Council Agenda.*

The Mayor reported that a Declaration of Interest had been received from Cr Hawkins-Zeeb in relation to Item 10.3.4. In accordance with the *Local Government (Rules of Conduct) Regulations 2007* the Declaration will be read out immediately before the Item in question is discussed.

## 6. PUBLIC QUESTION TIME

### 6.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the Council meeting held 11 October 2011 there were no Questions taken on Notice.

### 6.2 PUBLIC QUESTION TIME : 22.11.2011

#### Opening of Public Question Time

The Mayor stated that in accordance with the *Local Government Act* regulations question time would be limited to 15 minutes. She said that questions are to be in writing and questions received prior to this meeting will be answered tonight, if possible or alternatively may be taken on notice. Questions received in advance of the meeting will be dealt with first, long questions will be paraphrased and same or similar questions asked at previous meetings will not be responded to.

The Mayor further stated that the purpose of Public Question time was to provide the community with the opportunity to raise questions and said that there were other ways people could raise questions, such as contacting their Ward Councillors or by logging on to the City's website and submitting a question via 'enquires'. She further advised that she was proposing to make herself available to meet with members of the community on the first Friday of each month, commencing on 3 February 2012.

The Mayor then opened Public Question Time at 7.08pm.

**Note:** *Written Questions submitted prior to the meeting were provided in a powerpoint presentation for the benefit of the public gallery.*

<b>6.2.1 Mr Paul Ruthven, Charles Street, South Perth</b>
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*(Written Questions submitted prior to the meeting)*

#### Summary of Question

1. Did Councillors and/or city officers, during the 30th August 2011 Concept Forum or at any other time, discuss either verbally or in writing, whether to exclude an area containing a group of residents that have previously demonstrated opposition to high-rise development, from the area of the consultation mail-out on the proposal to make a portion of Richardson Park available for high-rise development?
2. How does Council explain the extreme asymmetry of this consultation area, which extends more than 3 times further in the opposite direction than it does in the direction where the aforementioned excluded residents reside (just North of Judd Street)?
3. Does Council acknowledge that there is an important difference between "having the opportunity to make a submission" on an issue, and actually being consulted on an issue, and that by choosing a consultation area in such an asymmetric way that it could be construed that the consultation area is being pre-biased based on information provided to the City through an earlier submission process? Having "the opportunity to make a submission" on an issue is only useful if you are aware that the issue exists in the first place, whereas consultation actually ensures that this awareness exists.

Summary of Response

The Chief Executive Officer responded that:

1. The area identified for consultation at the Concept Forum held on 30 August 2011 takes into account the comprehensive consultation that has already occurred over a long period of time in connection with the Railway Station Precinct consultation process. The area identified for consultation reflects the agreement reached by Councillors who attended the Workshop held on 30 August 2011 to discuss the consultation process.
2. All residents within the precinct area have been given many opportunities to comment on the proposal and the thought behind setting the new wider area was to give residents in a wider catchment area the opportunity to comment.
3. As previously stated, residents from any locality are entitled to make a submission. Whether within or external to the agreed area residents will have an opportunity to make a submission on the subject. There is no discrimination as all residents have the opportunity to comment during the consultation process.

**6.2.2 Mr Barrie Drake, 2 Scenic Crescent, South Perth**

*(Written Questions submitted prior to the meeting)*

Summary of Question

1. Why does the City Council threaten to prosecute some landowners for failing to comply with the Town Planning Scheme and turn a blind eye to other landowners who fail to comply with the Scheme?
2. How many neighbours' complaints does the Council require in order to investigate that complaint?
3. Does the Council investigate and respond to every neighbour's complaint?

Summary of Response

The Chief Executive Officer responded that:

- 1-3 The City investigates and responds to all complaints. The action taken in regard to each complaint is dependant upon the following factors:
  - (a) Whether it is in the public interest of the proper and orderly development and use of land that the applicable law(s) should generally be complied with;
  - (b) The impact of the contravention of the law on the effected locality and environment. This includes a consideration of whether the breach complained of is purely technical in nature which is unnoticeable other than to a person well versed in the relevant law;
  - (c) Those factual circumstances in which the contravention of the law took place;
  - (d) The time which has elapsed since development was undertaken in contravention of the law; and
  - (e) The expense and inconvenience which would be involved in remedying the contravention of the law.



**6.2.3 Mr Geoff Defrenne, 24 Kennard Street, Kensington**

*(Written Questions 'tabled' at the meeting)*

Summary of Question

At Item 10.3.3 on the November Agenda there is the suggestion that Council may prosecute the applicant if the garage is not modified to comply with the Town Planning Scheme:

1. Is the City aware of any non-compliance with the TPS within the City?
2. Is the City aware of any building in the City where the plot ratio exceeds that permitted by the TPS when built?
3. If the City is aware of any non-compliance with the TPS within the City, is the City proposing to prosecute the owners or builders of any building that does not comply with the TPS?
4. For the convenience of all residents, will the City release guidelines to the public stating what breaches of the TPS the City will prosecute and those which the City will ignore?

Summary of Response

The Chief Executive Officer stated that questions 1 - 4 from Mr Defrenne were of the same nature as those questions submitted by Mr Drake and as such the same response is applicable, as follows:

- 1-4 The City investigates and responds to all complaints. The action taken in regard to each complaint is dependant upon the following factors:
  - (a) Whether it is in the public interest of the proper and orderly development and use of land that the applicable law(s) should generally be complied with;
  - (b) The impact of the contravention of the law on the effected locality and environment. This includes a consideration of whether the breach complained of is purely technical in nature which is unnoticeable other than to a person well versed in the relevant law;
  - (c) Those factual circumstances in which the contravention of the law took place;
  - (d) The time which has elapsed since development was undertaken in contravention of the law; and
  - (e) The expense and inconvenience which would be involved in remedying the contravention of the law.

**6.2.4 Mr Lindsay Jamieson, 14 Tralee Way, Waterford**

*(Written Questions 'tabled' at the meeting)*

The Chief Executive Officer referred to two series of questions lodged by Mr Jamieson which are in connection with a matter dealt with by Council in the past and said that for that reason there was no need to spend further time on the matter. The CEO reminded Mr Jamieson of the Council resolution at Item 14.1 of the June 2011 Council meeting and read aloud the following:

*That Council determines that in accordance with Standing Orders Local Law Clause 6.7(7)(a) that any questions of Council; and in accordance Standing Order Local Law Clause 6.9(2)(b) requests for deputation, associated with the 2007 Report of the Inquiry into the City of South Perth shall not be responded to until such time as an Officers Report or Notice of Motion is tabled for consideration at a future Ordinary Council Meeting.*

**6.2.5 Mr Geoff Defrenne, 24 Kennard Street, Kensington**

*(Written Questions 'tabled' at the meeting)*

Summary of Question

Where a resident requests a document from the City that is readily available and would be released in full if an FOI request was made, will the City just release the document to the applicant rather than incur further expense by the City in preparing a letter stating that the applicant can make an application for the document and having to process the FOI for a mere \$30 plus copying cost?

Summary of Response

The Chief Executive Officer responded, no.

Close of Public Question Time

There being no further written questions the Mayor closed Public Question Time at 7.20pm

**7. CONFIRMATION OF MINUTES AND TABLING OF NOTES OF BRIEFINGS AND OTHER MEETINGS UNDER CLAUSE 19.1**

**7.1 MINUTES**

**7.1.1 Ordinary Council Meeting Held: 11 October 2011**

**7.1.2 Special Council Meeting Held: 18 October 2011**

**7.1.3 Special Electors Meeting Held: 24 October 2011**

**7.1.4 Special Council Meeting Held: 08 November 2011**

MOTION

Moved Cr Trent, Sec Cr Howat

That the Minutes of the Ordinary Council Meeting held 11 October, the Special Council Meeting held 18 October, the Special Electors Meeting held 24 October and the Special Council Meeting held 8 November 2011, be taken as read and confirmed as a true and correct record.

AMENDMENT

Cr Grayden referred to Item 6.2.1 of Public Question Time in the Minutes of the Ordinary Council Meeting held 11 October 2011 and in particular a 'point of clarification' raised by Cr Ozsdolay, as follows:

*Cr Ozsdolay point of clarification - would like Council to consider response. The CEO stated that the answer provided reflects the agreement reached by Councillors who attended the Workshop held on 30 August 2011 to discuss the consultation process.*

and Moved that the following additional words ***however, ultimately the decision is one for Council*** be included after the word ***process***. Sec Cr Skinner.

The Mayor put the Amendment.

CARRIED (9/2)

**COUNCIL DECISION ITEMS 7.1.1 TO 7.1.4**

Moved Cr Trent, Sec Cr Skinner

That the Minutes of the Ordinary Council Meeting held 11 October (as amended), the Special Council Meeting held 18 October, the Special Electors Meeting held 24 October and the Special Council Meeting held 8 November 2011, be taken as read and confirmed as a true and correct record.

CARRIED (11/0)

**7.2 BRIEFINGS**

The following Briefings which have taken place since the last Ordinary Council meeting, are in line with the 'Best Practice' approach to Council Policy P672 "Agenda Briefings, Concept Forums and Workshops", and document to the public the subject of each Briefing. The practice of listing and commenting on briefing sessions, is recommended by the Department of Local Government and Regional Development's "Council Forums Paper" as a way of advising the public and being on public record.

**7.2.1 Agenda Briefing - October Ordinary Council Meeting Held: 4.10.2011**

Officers of the City presented background information and answered questions on items identified from the October Council Agenda. Notes from the Agenda Briefing are included as **Attachment 7.2.1.**

**7.2.2 Concept Forum - Arlington/Kensington Residential Design Guidelines Manual and Old Mill Precinct Update - Meeting Held: 3.10.2011**

Consultant Murray Castleton of TPG Consultants provided an update on the Arlington/Kensington Residential Design Guidelines Manual and Project Manager/Architect Garry Lawrence and David Bobridge, Coastal Engineer from MP Rogers provided an update on the Old Mill Project. Following each presentation Members raised questions and points of clarification which were responded to by the Consultants/Officers. Notes from the Concept Briefing are included as **Attachment 7.2.2.**

**7.2.3 Concept Forum - Major Development Forum - Mixed Development 3 and 5 Barker Avenue, Como - Meeting Held: 26.10.2011**

Representatives from Metier Pty Ltd (developer) and Birchgroup (architect) gave a presentation on the proposed mixed development at Nos. 3 and 5 Barker Avenue, Como. Following the presentation Members raised questions and points of clarification which were responded to by the Consultants/Officers. Notes from the Concept Briefing are included as **Attachment 7.2.3.**

**COUNCIL DECISION ITEMS 7.2.1 - 7.2.3**

Moved Cr Grayden, Sec Cr Cala

That the comments and attached Notes under Items 7.2.1 to 7.2.3 on Council Briefings held since the last Ordinary Council Meeting be noted.

CARRIED (11/0)

**8. PRESENTATIONS**

**8.1 PETITIONS - A formal process where members of the community present a written request to the Council**

Nil

**8.2 PRESENTATIONS** - Occasions where Awards/Gifts may be Accepted by Council on behalf of Community.

**8.2.1 The NAIDOC Week School Initiative Award Presentation to the City of South Perth**

The Mayor presented a commemorative clock to the City from “Koori Kids” in appreciation of the City of South Perth commitment and support towards the NAIDOC Week School Initiatives in providing an educational component to cultural awareness and assisting in reconciliation.

**8.3 DEPUTATIONS** - A formal process where members of the community may, **with prior permission**, address the Council on Agenda items where they have a **direct** interest in the Agenda item.

**8.3.1 Deputations at Council Agenda Briefing Held: 15 November 2011**

There were five Deputations heard at the Agenda Briefing on 15 November in relation to Items 10.0.3, 10.3.3, 10.3.4 and 10.3.5.

**8.3.2 Deputations at Council Meeting Held: 22 November 2011**

There were no Deputations at the November Council Meeting.

**8.4 COUNCIL DELEGATES REPORTS**

Nil

**8.5 CONFERENCE DELEGATES REPORTS**

Nil

**9. METHOD OF DEALING WITH AGENDA BUSINESS**

The Mayor advised the meeting that with the exception of items which have been identified to be withdrawn for discussion the remaining reports, including the officer recommendations, will be adopted en bloc, ie all together. She then sought confirmation from the Chief Executive Officer that all the report items had been discussed at the Agenda Briefing held on 15 November 2011.

The Chief Executive Officer confirmed that this was correct.

WITHDRAWN FROM AGENDA ITEM 10.3.5

The Mayor reported that following the Agenda Briefing a written request had been received from the applicant requesting that Item 10.3.5 be withdrawn from the November Agenda.

WITHDRAWN ITEMS

The following report items were withdrawn for discussion:

- Item 10.0.1
- Item 10.0.2
- Item 10.3.3
- Item 10.3.4
- Item 10.6.12

**COUNCIL DECISION ITEM 9.0 - EN BLOC RESOLUTION**

Moved Cr Cala, Sec Cr Howat

That the officer recommendations in relation to Agenda Items 10.0.3, 10.1.1, 10.3.1, 10.3.2, 10.6.1, 10.6.2, 10.6.3, 10.6.4, 10.6.5, 10.6.6, 10.6.7, 10.6.8, 10.6.9, 10.6.10, 10.6.11 and 10.7.1 be carried en bloc.

CARRIED (11/0)

## 10. REPORTS

### 10.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS

<b>10.0.1 Old Mill Precinct</b> ( <i>referred Item 10.0.3 May 2011 Council Meeting</i> )
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Location:	City of South Perth
Applicant:	Council
File Ref:	ED/101
Date:	3 November 2011
Author:	Cliff Frewing, Chief Executive Officer

#### **Summary**

The purpose of this report is to advise on the progress of various components of the Concept Plan for the Old Mill Precinct, approved in principle at the May 2011 Council Meeting and propose that necessary studies be approved that will assist in the design and approval process.

#### **Background**

In September 2010 Council endorsed the Old Mill Precinct proposal solely for the purpose of conducting community consultation. The results of the community consultation was the subject of a report to the May 2011 meeting. At that meeting Council resolved as follows:

*That Council notes the results of the community consultation and agrees in principle to progress the Concept Plan in stages as follows:*

- (a) *by authorising Garry Lawrence to:*
  - (i) *upgrade the Concept Plan as a result of the community consultation (including DAC) feedback;*
  - (ii) *prepare a detailed financial budget for the Millers Pool component of the concept prior to further consideration; and*
  - (iii) *prepare a detailed financial budget for the Tram House component of the Concept Plan, with a view to progressing it as a “stand alone” building that can be constructed in the short term with the understanding that it will be incorporated into the larger Gallery/Museum in the longer term should the City commit itself to this project; and*
- (b) *authorise the Administration to pursue other components of the Plan and report back to Council prior to 30 September 2011.*

The preliminary results of the assignment were provided by Garry Lawrence at a Councillor Briefing session held on Monday, 3 October 2011. At the conclusion of the meeting the CEO advised that a report would be prepared identifying the course of action presented at the briefing.

#### **Comment**

As indicated above Garry Lawrence provided an update on the Old Mill Project at a Council briefing covering the following topics:

- Revised Concept Design following DAC Comment
- Preliminary Approvals and Service Infrastructure
- Preliminary Cost for Tram Enclosure
- Preliminary Cost for Millers Pool

A detailed set of Notes of the presentation is contained in *Attachment 7.2.2* and as a consequence it is not proposed to revisit the issues contained in the presentation in detail in this report. With respect to the revised concept design which incorporates the Design Advisory Committee minutes, the following revised plans showing the changes suggested by the DAC are attached:

**Attachment 10.0.1(a) - Tram Enclosure**

This plan shows the tram enclosure built in advance of the museum and gallery located on the grassed island that is used as a bus turnaround area. The land on which the tram enclosure is built is vested in the City as a road reserve. When the museum/gallery is funded, the tram enclosure will be incorporated into the larger building and form an integral part of the new building. The tram enclosure will therefore need to be built with its longer term function in mind.

The estimated cost of the tram enclosure built to an appropriate standard is within the range of \$620 000 to \$675 000 including contingencies and fees.

**Attachment 10.0.1(b) - Millers Pool**

This plan shows the restaurant relocated to the northern side of the pool and the treatments to soften the edge of the pool by planting sedges resulting in a more softer look. The objective is to also retain the three river gums in the vicinity as they are significant trees. All other suggestions proposed by the DAC have been incorporated into the revised design.

At this preliminary stage the total pool construction including contingencies and fees is estimated to be in the range of \$1.574 to \$2M but this is subject to further environmental studies and final design of the various components being completed.

Landscaping costs of surrounding areas are estimated to cost a minimum of \$730 000 but specifications have not yet been finally determined. It is acknowledged that landscaping would occur progressively over time once the pool has been constructed and funds being made available by Council.

**Attachment 10.0.1(c) - Museum and Gallery**

Only very preliminary costings have been obtained in relation to this proposed facility. Costs in the order of \$9.5M excluding fees and contingencies are envisaged and it would be reasonable to suggest that external funding would be sought from various Government sources and potentially private organisations. Other than the fact that if the tram enclosure is built and that it needs to be recognised as an isolated building until such time that the museum and gallery is built, there is no decision required to be made on this building at this time.

**Attachment 10.0.1(d) - Revised plan view**

This plan shows all of the proposed changes to the concept plan consolidated into the revised precinct plan.

The above changes to the earlier concept plan provide an improved look and feel to the precinct as it provides greater prominence to the Old Mill as the space surrounding the Old Mill has increased to the north and south. The Old Mill benefits from the increased exposure and greater public open space immediately surrounding it.

If Council decides to proceed with the project it is important that a commitment be given to the revised concept plan so that work on all components of the plan can be progressed. Important components of the project (other than those detailed in this report) include:

- Identifying with more precision the area of land to be used as a restaurant near the foreshore;
- Following up on funding and partnering opportunities in relation to the provision of the museum / gallery and Margaret Forrest entertainment area.

It is important to note that the City would not be solely responsible for funding the facilities contained in the concept plan.

Emphasis would be placed on the facilities to be provided on the eastern side of the Narrows which are regarded as fairly normal and routine “municipal works”, but even then major funding contributions would be sought from external sources. The proposed works on the western side of the Narrows are considered to be more of a government and private enterprise role and the City’s role would likely be restricted to provision of basic infrastructure.

### **Swan River Wall**

Whilst unrelated to the Old Mill Precinct Concept, it is important to note that the Swan River Wall west of the Queen Street Jetty has deteriorated in condition and is required to be upgraded at some stage in the future. This work, together with a promenade is therefore required to be constructed regardless of any works performed at Millers Pool. This work needs to be viewed as a separate exercise and other funding opportunities will be researched and the results presented back to Council.

Swan River wall treatment from the Queen Street jetty to the Narrows Bridge which is required to be done regardless of any works associated with Millers Pool are estimated to cost \$1.225M excluding fees and contingencies.

A grant application was recently lodged with Regional Development Australia Fund for this important work but was unsuccessful.

### **Preliminary Approvals and Service Infrastructure**

There have been several phases of public consultation conducted during the period 2005-2010 including feedback from various statutory authorities, government agencies, indigenous research conducted community consultation and compilation of briefing notes completed. There still remains a significant amount of formal consultation with various State Agencies in order to obtain statutory approval to proceed with the project. The surveys include the following with estimated costs:

- Heritage Council Conservation Plan Update \$11,000
- Heritage Council Impact Study \$2,500
- Study to obtain approval Required Under Section 18 of the *Aboriginal Heritage Act 1972* \$40,780
- Environmental Studies including acid sulphate soil studies (Geotech and dewatering) and SRT Approvals etc \$185,000
- Western Power Fibre Optic Relocation (Tram Enclosure) \$35,000
- Other Costs as yet not known in relation to Optus etc

Despite the significant amount of public consultation that has already occurred over an extended period of time, there is a possibility that the Swan River Trust or some other State Agency will require a Public Environment Review to be conducted to clear the project. If this is the case, it is estimated that up to \$277,000 in further funds will be required. It is unlikely that funds for this study would be required in the current financial year as the acid sulphate soils and other studies would be first required to be completed and development applications approved by the City for lodgement with the Swan River Trust.

It is essential that the studies required by the Heritage Council, the Aboriginal Heritage Act and the Environmental studies are completed to enable a more accurate assessment of the cost involved in treating any acid sulphate soils and issues associated with dewatering. When this information is known, the project can then be further reviewed to minimise construction costs. Council approval is therefore sought to commence the studies with a further report to be prepared for Council consideration upon completion.

### **Tram Enclosure**

Subject to project funding being made available in future budgets, works on the tram enclosure can commence as soon as the relevant studies have been completed and approvals obtained from various agencies. Should Council agree to proceed with the studies being conducted, the specifications of the tram enclosure can be commenced with a view to tendering the work when approvals are received. If however Council approves the construction of the tram enclosure, it must be recognised that the stand alone building will not be integrated with any other part of the project for a number of years. It will be a stand alone facility of doubtful architectural merit before it is integrated into the museum / gallery. At this stage there is no financial capacity to build the museum and gallery which will eventually incorporate the tram enclosure.

Since the date of the last Council briefing on the subject, Western Power has advised that the estimated costs for relocation of the fibre optic cable (which must necessarily occur to accommodate the Tram building) has reduced from \$50,000 to \$35,000.

### **Millers Pool**

Preliminary Costs and Key Design features for Millers Pool include the following:

- Acid soil management and dewatering requirements need to be ascertained before accurate costings can be taken further.
- Design of pool has been re-visited with a view to minimising volume of soil removed which reduces acid soil interference
- Retaining walls redesigned with a sloped batter into Millers Pool which will be landscaped with sedges resulting in a soft edge look, reduction in costs and minimising complexity
- Objective is to retain the three large Red River Gum trees on site
- At this preliminary stage the total pool construction including contingencies and fees is estimated to be in the range of \$1.574 to \$2M
- Landscaping costs are estimated to cost a minimum of \$730,000 but specifications have not yet been finally determined. It is acknowledged that landscaping would occur progressively over time, once the pool has been constructed.
- Desirable [but not essential] that the river wall from the Queen Street jetty west to Narrows is upgraded as part of the overall project
- River wall and bridge detail needs to be finalised



**Consultation**

During the course of developing the concept plan, significant community consultation and liaison has occurred. In addition, informal consultation has been carried out with the following State Government and related agencies. The overwhelming response received to date has been extremely positive by all those agencies contacted.

The State Government and other stakeholders consulted for informal response are as follows:

- > Aboriginal Groups - (Sovereign Whadjuk and South West Aboriginal Land and Sea Council)
- > City of Perth
- > Committee for Perth
- > Department of Lands and Regional Development
- > Department of Planning
- > Department of Premier and Cabinet
- > Department of Transport (Marine Safety)
- > Heritage Council
- > Kings Park Botanic Gardens and Parks Authority
- > Local State and Federal politicians
- > Lotteries WA
- > Main Roads Western Australia
- > National Trust of WA
- > Perth Waterfront Authority
- > Premier's Office
- > South Perth Historical Society
- > Swan River Trust
- > Telstra
- > Tourism WA
- > WA Planning Commission

All of these agencies have expressed support for the project - some conditional.

The Old Mill Precinct concept proposal was advertised for public comment in November 2010 for a period of 45 days which concluded on 14 January 2011 and a Public Information Forum was held on Saturday 20 November 2010, attended by approximately 250 residents. The results of this consultation was reported to Councillors in February 2011.

Because of the location and possible impact of the proposed development on the local community, a total of 7,500 brochures were delivered to each household in the Mill Point and Civic Wards, with extensive advertising occurring in local and City media to cover the whole of the City.

The project has been reviewed by Council on regular occasions most recently at a Councillors briefing session held on 3 October 2011.

**Policy and Legislative Implications**

(a) The land involved is Crown land vested in the City as follows:

	<b>Title</b>	<b>Purpose</b>
1	Reserve 37594 LR Vol 3043 Fol 251 Lot 921 on Deposited Plan 214831	Park and Recreation
2	Reserve 20804 LR Vol 3127 Fol 182 Lot 818 on Deposited Plan 209789	Public Recreation
3	Reserve 20804 LR Vol 3127 Fol 183 Lot 833 on Deposited Plan 34516	Public Recreation
4	Reserve 37593 LR Vol 3043 Fol 252 Lot 922 on Deposited Plan 214831	Park and Recreation
5	Reserve 33804 Vol 3119 Fol 157 Lot 920 on Plans 14831 and 14832	Recreation
6	Portion of road reserve	Local Road

A change in the vesting in respect of one or more of the above parcels may be required. It is possible that an amalgamation of some or all of the vesting orders will also be required. Approval will also be necessary to lease portions of the land for commercial purposes but this is not proposed at this time.

The relevant statutory implications were detailed in the April report considered by Council on 3 May 2011.

(b) It is appropriate that the appointment of Garry Lawrence & Associates as architect and project manager needs to be formalised as the costs potentially about to be incurred may exceed the Local Government tender threshold. Garry Lawrence & Associates approached the City with the Old Mill project concept (which the City has progressed) after incurring considerable personal investment, the intellectual property rights to the ideas, concepts, knowledge and much of the research belong to this firm. It would not therefore be appropriate to put out to tender architectural or and project management work for this project.

The Local Government *Functions and General Regulations* anticipate such situations as follows:

Clause 11

- (1) (not relevant)
- (2) Tenders do not have to be publicly invited according to the requirements of this Division if —
  - (a)-(e) (not relevant)
  - (f) the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier

If Council adopts the revised concept plan, the City will be committed to the Garry Lawrence & Associates proposal and the services for architectural and project management will be difficult to obtain elsewhere. On this basis it is appropriate for Council to appoint Garry Lawrence & Associates to provide architectural and project management for the project.

### **Financial Implications**

Significant funds are required to complete the project and a full financial implications summary was included in the April report adopted by Council on 3 May 2011. The information provided below reflects the new information provided at the Council briefing and is subject to the results of the environmental studies being conducted, the finalisation of the various design elements and results of tenders being called.

The surveys include the following with estimated costs:

- Heritage Council Conservation Plan Update \$11,000
- Heritage Council Impact Study \$2,500
- Approval Required Under Section 18 of the *Aboriginal Heritage Act 1972* \$40,780
- Environmental Studies including acid sulphate soil studies (Geotech and dewatering) and SRT Approvals etc \$185,000
- Western Power Fibre Optic Relocation (Tram Enclosure) \$35,000
- Public Environment review costs if required could amount to a further sum of approximately \$277,000 if a review is required to be conducted by the Swan River Trust or other State Agency. This work would not be conducted this financial year and would only be incurred if the Swan River Trust required the Public Environment review to be done after lodgement of a Development Application.

Fees of approximately \$65,900 would also be required to prepare detailed specifications for the construction of the tram enclosure for the purpose of tendering.

The 2011/12 budget includes budget provisions of \$585 000 for this project of which \$48,983 has been spent as at 31 October 2011. Sufficient funds are therefore available to fund the works proposed and detailed in this report.

Further funding allocations to this project will be dependent upon Council decisions when future budgets are adopted having regard for competing priorities.

### **Strategic Implications**

This project fosters a sense of community by increasing appreciation of South Perth's heritage and aligns with the City's Strategic Direction 4 "Places" - *Plan and develop safe, vibrant and amenable places*. In particular Strategic Direction 4.1 states: *Identify and ensure activity centres and community hubs offer a diverse mix of uses and are safe, vibrant and amenable..*

Corporate Plan, Action 4.1.1. states: *Progress the Old Mill Precinct Redevelopment Concept*

### **Sustainability Implications**

This project assists in providing a tangible link with the City's past and is a celebration of its history in the community of South Perth. The project also has a tangible and relevant link with the Perth Waterfront project and is seen to complement this project.

The City, through its Sustainability Policy and Strategy, is committed to ensuring that developments are considered with adaptations to the impacts of climate change. Notably for the proximity of this development, the major climate change impacts are likely to be sea/river level rise and storm surge and the flood allowance level for long term climate change has been considered when setting the floor levels of the major building elements.

Through the Sustainability Strategy, the City is committed to ensure that a Sustainability Assessment approach be applied to development proposals, in particular, the community consultation element and the procurement / tendering process. A successful demonstration of a Sustainability Assessment approach was recently applied to the planting of extra trees on the Sir James Mitchell Park.

In addition, the application of Ecologically Sustainable Development (ESD) principles be applied to the built elements of the development, to ensure the buildings are 'future fit'. The ESD principles include energy and water efficiency, waste reduction, materials use, the consideration of sustainable transport, and others.

<b>OFFICER RECOMMENDATION ITEM 10.0.1</b>
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That....

- (a) Council adopt the revised concept plan detailed in this report and in particular the design concepts shown in the attachments to this report for the Old Mill precinct as the basis for future direction in accordance with Corporate Plan Action 4.1.1. which states: ***Progress the Old Mill Precinct Redevelopment Concept;***
- (b) Subject to the adoption of recommendation (a) above:
  - (i) Council approves the following studies to be conducted to provide essential information to advance the Old Mill Precinct Concept Plan:
    - (A) Heritage Council Conservation Plan and Impact Study;
    - (B) Study to obtain approval under Section 18 of the *Aboriginal Heritage Act 1972*; and
    - (C) Environmental Study incorporating acid sulphate soil study and Dewatering Study.
  - (ii) in accordance with Local Government (Functions & General) Regulation 11(2)(f), approves Garry Lawrence & Associates to project manage the various studies listed in recommendation (b)(i) above;
- (c) Council considers a further report on the completion of the works detailed in (a) and (b) above in relation to the:
  - (i) Public Environmental review (if required) and all other work necessary to obtain the approval of the Swan River Trust and Department of Water and other related State Agency approvals;
  - (ii) preparation of the detailed specification for the Tram Enclosure to tender standard; and
  - (iii) relocation of the Western Power Fibre optic cable and any other issues that may arise.

MOTION

Cr Lawrance Moved the officer recommendation, Sec Cr Hasleby

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Lawrance Opening for the Motion

- commend officer report on a job well done
- proposed project investigated thoroughly we can now move on
- proposed studies will enable the project to move forward
- support officer recommendation

Cr Hasleby for the Motion

- concur with Cr Lawrance's comments
- support officer recommendation

Cr Skinner against the Motion

- we would be remiss to not ask questions associated with legal arrangements of project
- we have accepted Notes of the Briefing at Item 7.2.2
- have previously raised questions about arrangement with Garry Lawrence - no legal arrangement
- believe it is difficult to make decisions based on a lot of unknown variables

Chief Executive Officer stated that he needed to clarify the point that the City did not have any long term legal arrangements in place because at this stage Council has not adopted the Old Mill Redevelopment Concept Plan, therefore it is not appropriate to enter into a legal contract at this point because Council has only adopted progressing various components of preliminary investigations associated with the project.

FORESHADOWED MOTION

Cr Skinner stated that she would be moving a motion to defer Item 10.0.1 pending legal advice if the current Motion is lost.

Cr Lawrance closing for the Motion

- need to adopt the officer recommendation in order to move forward
- inappropriate to go to expenses of legal fees if we have not adopted the project
- support officer recommendation / moving forward

The Mayor Put the Motion.

LOST (4/7)

MOTION

Moved Cr Skinner, Sec Cr Gleeson

That....

- (a) the officers recommendation not be adopted;
- (b) consideration of the Old Mill Precinct proposal be deferred to a future Council meeting pending the receipt of legal advice on the following issues:
  - (i) If Council adopts the revised Concept Plan detailed in the report,
    - (A) does this bind the Council to these plans should it wish to deviate from them at some time in the future or chooses to re-visit the Master Planning Process entirely; and
    - (B) does the issues stated in the report on various land dealings and proposed funding, but not part of the recommendation, also bind the Council to any specific course;
  - (ii) if Council wishes to progress with the construction of any of the buildings in an approved Master Plan, are Expressions of Interest required as detailed under the conditions of the *Local Government Act*; and does the adoption of the Concept Plan bind the Council to Garry Lawrence and Associates as the lead consultant;
  - (iii) is a formal agreement required to appoint Garry Lawrence & Associates to project manage the studies proposed in the recommendation and any negotiations he will undertake with any government department or body on behalf of the Council and would such outcome be binding on the Council;
  - (iv) would any agreement outline any obligations required under the Local Government Act and subsidiary legislation such as any disclosures of financial interest regarding any part of the project; and

- (v) who owns the Intellectual Property (IP) rights of the Concept Plan; and if it is established that they belong to Garry Lawrence & Associates, how can the Council be protected should they wish to on-sell to a third party developer at some stage in the future, who may not be of the Council's choice.

Cr Skinner Opening for the Motion

- Council has legislative duty/responsibility to ensure correct processes are established
- such a large scale / costly project may run over a number of years.
- believe we need the benefit of knowing our legal obligations
- want to base this project on facts - need legal advice

**COUNCIL DECISION ITEM 10.0.1**

The Mayor Put the Motion

That....

- (a) the officers recommendation not be adopted;
- (b) consideration of the Old Mill Precinct proposal be deferred to a future Council meeting pending the receipt of legal advice on the following issues:
  - (i) If Council adopts the revised Concept Plan detailed in the report,
    - (A) does this bind the Council to these plans should it wish to deviate from them at some time in the future or chooses to re-visit the Master Planning Process entirely; and
    - (B) does the issues stated in the report on various land dealings and proposed funding, but not part of the recommendation, also bind the Council to any specific course;
  - (ii) if Council wishes to progress with the construction of any of the buildings in an approved Master Plan, are Expressions of Interest required as detailed under the conditions of the *Local Government Act*; and does the adoption of the Concept Plan bind the Council to Garry Lawrence and Associates as the lead consultant;
  - (iii) is a formal agreement required to appoint Garry Lawrence & Associates to project manage the studies proposed in the recommendation and any negotiations he will undertake with any government department or body on behalf of the Council and would such outcome be binding on the Council;
  - (iv) would any agreement outline any obligations required under the Local Government Act and subsidiary legislation such as any disclosures of financial interest regarding any part of the project; and
  - (v) who owns the Intellectual Property (IP) rights of the Concept Plan; and if it is established that they belong to Garry Lawrence & Associates, how can the Council be protected should they wish to on-sell to a third party developer at some stage in the future, who may not be of the Council's choice.

CARRIED (8/3)

Reason for Change

Council supported deferring consideration of the Old Mill Precinct proposal pending seeking legal advice on the various issues raised.

**10.0.2 Disposal of Lot 30 (No.14) Collins Street, Kensington**

Location:	City of South Perth
Applicant:	Council
File Ref:	LP/209/27
Date:	24 October 2011
Author:	Phil McQue, Manager Governance and Administration
Reporting Officer:	Cliff Frewing, Chief Executive Officer

**Summary**

This report recommends that the Council resolve to dispose of Lot 30 (14) Collins Street Kensington by private treaty or auction, with the Council delegating authority to the Chief Executive Officer to negotiate the sale and execute the relevant transfer of land documentation.

**Background**

The disposal of this property is consistent with long term plans adopted by Council to rationalise aging facilities and consolidate Child Health Clinics in two centralised 'hubs'.

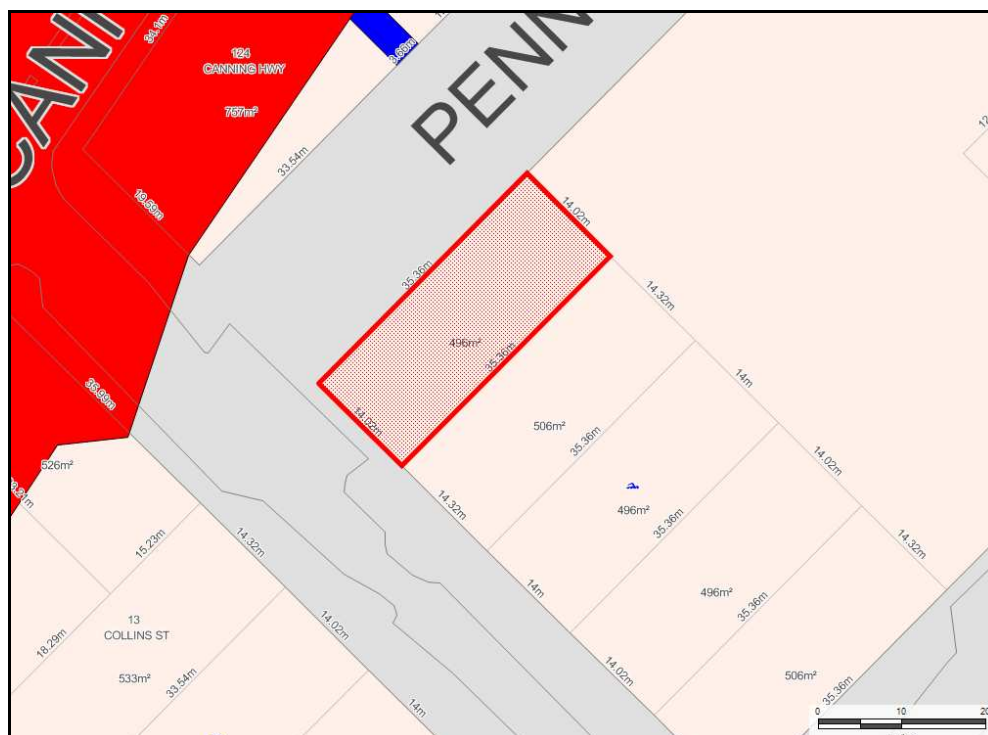
Specifically, this course of action was documented in the City's '*Connected Community Plan*' which operated for the period 2005 - 2008. Relevant actions arising from this plan are as follows:

- 1.1 Investigate the development of two community focal points (north and south) based on the redevelopment of the South Perth Civic Centre and the George Burnett Leisure Centre;
- 1.2 Examine the cost/benefit/opportunity of disposing of Council's surplus land holdings so the resources can be utilised to support community facility enhancement; and
- 1.9 Investigate partnerships with State Government to provide centralised health services as possible 'one-stop' health centres at the two community focal points.

The above actions have been the focus of corporate direction and relevant actions reflected in subsequent corporate documents such as the Strategic Financial Plan and annual budgets etc.

Lot 30 (14) Collins Street Kensington is a 496 sqm site that is owned freehold by the City. The lot is the site of the former Kensington Child Health Clinic which became vacant when the Council resolved to relocate and centralise the City's child health facilities to the newly developed South Perth Community Civic Centre in February 2011.

This parcel of land is no longer used for its specified purpose and is considered surplus to the City's operational and strategic requirements. As stated in the February 2011 Council report, the Council's intention when centralising the City's child health facilities was to dispose of the surplus land to fund other strategic priority community facilities and projects in line with the City's Strategic Plan 2010-2015 and Corporate Plans 2010-2011 and 2011-2012. The City would maximise the sale proceeds from the proposed disposition by disposing of the parcel of land as residential, and therefore a scheme amendment process was commenced by the Council in February 2011.



The Council resolved in February 2011 to initiate Amendment No. 27 to the Town Planning Scheme No. 6 in order to rezone the site of the Kensington Child Health Clinic for residential development. Following consideration of the submissions received during the statutory consultation period, the Council in June 2011 resolved to amend Town Planning Scheme No. 6 by excising Lot 30 (14) Collins Street Kensington from the Public Purposes (‘Clinic’) Reserve and including the lot within the residential zone with a density coding of R25. The rezoning was gazetted on 9 September 2011.

**Comment**

The proposed disposition of Lot 30 (14) Collins Street Kensington is in alignment with the City’s Strategic Plan 2010-2015 and Corporate Plans 2010-2011 and 2011-2012.

In accordance with statutory requirements, the City obtained a licensed market valuation in May 2011 from local valuer Garmony Property Consultants. This *confidential* market valuation assesses the parcel of land on an “as is” basis and indicates that the parcel of land is an attractive and marketable residential lot with a rear boundary backing onto the attractive David Vincent Park. The City has also sourced market valuations from local real estate agents, all of which are consistent with the licensed market valuation.

Given the complexities and response times required in land transactions, it is recommended that the Council delegate the Chief Executive Officer authority to negotiate the sale of the land, with the Chief Executive Officer to use the market valuation as a basis and guide for any proposed sale.

The City invited submissions and appraisals from local real estate agents with the Chief Executive Officer proposing to engage and authorise a real estate agent under delegated authority to act and auction land on behalf of the City, similar to the recent Alston Avenue lots disposition.

**Consultation**

The Scheme Amendment for Lot 30 (14) Collins Street Kensington was the subject of Council reports in February 2011 and June 2011, inclusive of a statutory consultation period 18 April 2011 to 3 June 2011.



**Policy and Legislative Implications**

The City is proposing to dispose of the parcel of land by private treaty or auction, with a real estate agent to act on behalf of the City of South Perth. Section 3.58 of the *Local Government Act 1995* details the process and requirements for disposing of property:

- (a) to the highest bidder at public auction; or
- (b) to the person who at the public tender called by the City, makes what is, in the opinion of the City, the most acceptable tender, whether or not it is the highest tender; or
- (c) by private treaty, as long as before agreeing to dispose of the property by private treaty, it gives local public notice of the proposed disposition.

Given that the value of the land is less than \$1,000,000, the proposed disposition is not considered a ‘commercial enterprise’ for the purposes of Section 3.59 of the *Local Government Act 1995* and there is therefore no requirement to prepare a Business Plan for community consultation.

**Financial Implications**

The City would maximise sale proceeds by disposing of the parcel of land as residential. The sale proceeds, estimated in market value between a range of \$500,000 to \$750,000 will fund strategic priority services and facilities as detailed in the Strategic Plan 2010-2015 and Corporate Plan 2011-2012. There will also be a ratable income from the property.

The costs associated with the proposed disposition will total approximately \$15,000, including real estate agent fees, marketing fees, legal fees, and any associated statutory fees.

**Strategic Implications**

The recommendation to dispose of Lot 30 (14) Collins Street Kensington is consistent with the 2010-2015 Strategic Plan - Direction 6– Governance “*develop and sustain appropriate human, financial, asset and technological resource capacity to deliver the priorities set out in the Strategic Plan*”. The rezoning amendment and disposal of Lot 30 (14) Collins Street Kensington has also been a key component of the 2010-2011 and 2011-2012 Corporate Plans. Disposal of this land is also consistent with past Council corporate direction as detailed in the City’s “Connected Community Plan”.

**Sustainability Implications**

The proposal to dispose of Lot 30 (No.14) Collins Street, Kensington will strengthen the financial viability of the City of South Perth.

<b>OFFICER RECOMMENDATION ITEM 10.0.2</b>
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That the Council resolve to:

- (a) dispose of Lot 30 (No.14) Collins Street, Kensington by auction or private treaty;
- (b) delegate authority to the Chief Executive Officer to:
  - (i) authorise Esze Berryman to auction land on behalf of the City;
  - (ii) negotiate the sale of the land, with the Chief Executive Officer having regard and consideration to the independent market valuation obtained by Garmony and Associates; and
  - (iii) execute the relevant documentation associated with the sale of land.

MOTION

Cr Hasleby Moved the officer recommendation, Sec Cr Lawrance

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Hasleby Opening for the Motion

- officer recommendation quite clear in respect of process
- proposed disposition of the parcel of land / reasons why have been addressed
- no trouble in supporting recommendation to dispose of 14 Collins Street

Cr Trent Against the Motion

- recently attended Neighbourhood Watch Committee Meeting
- No. 14 Collins Street would make an ideal home for Neighbourhood Watch
- against disposal of No.14 Collins Street - suggest we consider an alternative use
- acknowledge funds from sale of lot to go to Manning Hub project
- do not believe that by not selling 14 Collins Street it will slow down the Manning Hub project

FORESHADOWED MOTION

Cr Trent Foreshadowed that he would be moving to defer the matter to consider an alternative use for the site if the current Motion is lost.

Cr Cala for the Motion

- this matter has been debate previously
- do not believe we are losing anything
- proposal transfers one asset to another
- support the officer recommendation.

AMENDMENT

Moved Cr Skinner, Sec Cr Gleeson

That the officer recommendation be amended to include the following additional part(b)(iv):  
(b)(iv) include the proceeds from the sale of the Collins Street property, less expenses, in the Asset Enhancement Reserve.

Cr Grayden point of clarification - will adding the additional clause change the allocation from the sale? The Director Financial and Information Services stated that there will be no difference in the way the sale transaction is dealt with.

The Mayor Put the Amendment

CARRIED (6/5)

**COUNCIL DECISION ITEM 10.0.2**

The Mayor Put the Amended Motion

That the Council resolve to:

- (a) dispose of Lot 30 (No.14) Collins Street, Kensington by auction or private treaty;
- (b) delegate authority to the Chief Executive Officer to:
  - (i) authorise Esze Berryman to auction land on behalf of the City;
  - (ii) negotiate the sale of the land, with the Chief Executive Officer having regard and consideration to the independent market valuation obtained by Garmony and Associates; and
  - (iii) execute the relevant documentation associated with the sale of land.
  - (iv) include the proceeds from the sale of the Collins Street property, less expenses, in the Asset Enhancement Reserve.

CARRIED (7/4)

Reason for Change

Council supported the inclusion of the additional part (b)(iv) in the interests of transparency and public interest.

**10.0.3 Amendment No. 28 to Town Planning Scheme No. 6 to rezone Lot 51 (Nos. 245-247) Canning Highway, SW corner South Terrace, Como to Highway Commercial: Report on Submission (Item 10.0.2 July 2011 Council meeting refers).**

Location: City of South Perth  
Applicant: Tuscom Subdivision Consultants on behalf of the land owners, C.S Lau and C.Y Yang  
File Ref: LP/209/28  
Date: 1 November 2011  
Author: Adrian Ortega, Planning Officer  
Reporting Officer: Vicki Lummer, Director Development and Community Services

**Summary**

The applicant has requested an amendment to Town Planning Scheme No. 6 (TPS6) in relation to the site at Nos. 245 and 247 Canning Highway, Como, identified as Amendment No. 28. The applicant is seeking rezoning of the site from Residential R40 with a 7.0 metre building height limit to Highway Commercial R80 with a 10.5 metre building height limit.

At its July 2011 meeting, Council resolved to adopt the draft text of the Amendment before advertising, inviting submissions. Following clearance by the Environmental Protection Authority, the draft Amendment was advertised from 30 August to 14 October 2011. **Attachment 10.0.3(a)** is a report on the single submission received during this period.

The recommendation is that Amendment No. 28 be adopted with modification, to enable final approval to be granted by the Minister for Planning.

**Background**

This report includes the following attachments:

**Attachment 10.0.3(a)** Report on Submissions (for referral to the Minister)

**Attachment 10.0.3(b)** Schedule of Submissions

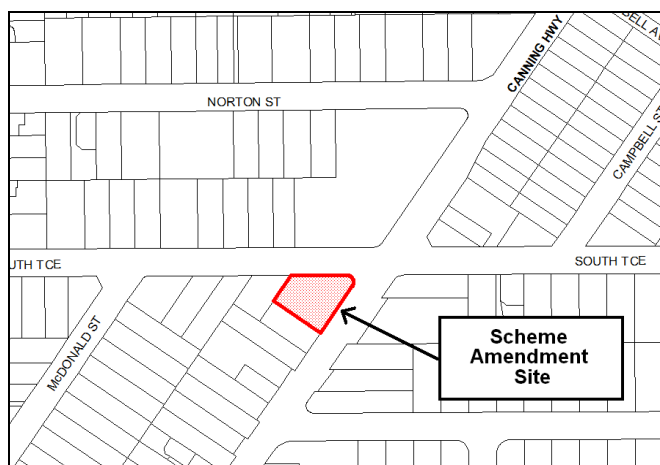
**Attachment 10.0.3(c)** Modified Amendment No. 28 document for final adoption.

**Confidential Attachment 10.0.3(d)** Neighbour's submission

Relevant details relating to the subject land are as follows:

<b>Lot area</b>	1498 sq. metres
<b>Current zoning</b>	Residential R40
<b>Current building height limit</b>	7.0 metres
<b>Proposed zoning</b>	Highway Commercial
<b>Proposed density coding</b>	R80
<b>Proposed building height limit</b>	10.5 metres
<b>Development potential under proposed Scheme Amendment</b>	As for the Highway Commercial zone. One of the listed 'D' (Discretionary) Uses is 'Mixed Development'
<b>Maximum plot ratio (Highway Commercial zone)</b>	0.5 = 749 sq. metres

The location of the development site is shown below:



### Comment

The objective of the Amendment is to facilitate a wider variety of uses on the site, including 'Mixed Development'. The proposed Highway Commercial zoning and increase in residential density coding from R40 to R80 will bring the site into line with the other corners of the Canning Hwy / South Terrace intersection.

In response to the advertising, one submission has been received. The submitter's principal objection relates to the proposed increase in the building height limit. The submission is presented and discussed in detail in the Report on Submission at **Attachment 10.0.3(a)** and Schedule of Submissions at **Attachment 10.0.3(b)**.

### Consultation

Following Council endorsement of the draft Amendment for public advertising, the Amendment was forwarded to the Environmental Protection Authority (EPA). The EPA responded on 17 August 2011, advising that the proposed Scheme Amendment does not need to be assessed under Part IV Division 3 of the Environmental Protection Act 1986 and that it was not necessary to provide any advice or recommendations. This response enabled the advertising process to commence.

The statutory advertising required by the *Town Planning Regulations*, Town Planning Scheme No. 6 and Council Policy P301 was undertaken in the manner described below:

- Community consultation period of 46 days;
- Southern Gazette newspaper notice in two issues: 30 August & 13 September 2011; and
- Notices and Amendment documents displayed in Civic Centre customer foyer, in the City's Libraries and on the City's web site ('Out for Comment').

The required minimum advertising period is 42 days. On this occasion, the actual advertising period was 46 days. During the advertising period, one submission was received, objecting to the proposal. The comments of the submitter, together with officer responses are contained in the attached Report on Submission and Schedule of Submissions at **Attachments 10.0.3(a)** and **10.0.3(b)**. These documents will be provided to the Western Australian Planning Commission (WAPC) for further consideration and for recommendation to the Minister for Planning.

In anticipation of the Minister's support, the final, modified Amendment text will also be provided to the WAPC and the Minister. A copy of the submission at **Confidential Attachment 10.0.3(d)**, in full, has been placed in the Council Members' Lounge for perusal prior to the Council meeting. The full submission will also be provided to the WAPC and the Minister.

#### Policy and Legislative Implications

The statutory Scheme Amendment process is set out in the *Town Planning Regulations*. The process as it relates to the proposed Amendment No. 28 is itemised below, together with the time frame associated with each stage of the process. Those stages which have been completed, including the forthcoming consideration at the 22 November 2011 Council meeting, are shaded:

Stage of Amendment Process	Time
Council resolution to initiate Amendment No. 28 to TPS6	3 May 2011
Council adoption of draft Amendment No. 28 for advertising purposes	26 July 2011
Referral of draft Amendment proposals to EPA for environmental assessment during a 28 day period	2 August 2011
Receipt of EPA's response	17 August 2011
Public advertising period of 46 days	30 August - 14 October 2011
Council consideration of Report on Submissions in relation to Amendment No. 28	22 November 2011
Referral to the WA Planning Commission and Minister for consideration: <ul style="list-style-type: none"> <li>• Report on Submission;</li> <li>• Schedule of Submissions;</li> <li>• Council's recommendations on the proposed Amendment No.28;</li> <li>• Three signed and sealed copies of the modified Amendment No. 28 documents for final approval.</li> </ul>	Mid-December 2011
Minister's final determination of Amendment No. 28 to TPS6	Not yet known
Publication of the approved Amendment No. 28 notice in <i>Government Gazette</i>	Not yet known

Following the Council's decision to recommend to the Minister that Amendment No. 28 proceed with modifications, three copies of the modified Amendment document will be executed by the City, including application of the City Seal to each copy. Those documents will be forwarded to the WAPC with the Council's recommendation.

### **Financial Implications**

Financial costs incurred during the course of the statutory Scheme Amendment process will be covered by the Planning Fee which is payable by the applicant in accordance with the Council's adopted fee schedule. In this case, the estimated Planning Fee of \$15,000 was paid on 6 May 2011 following Council's resolution to initiate the Scheme Amendment process. The actual fee will be based on officers' time and other actual costs incurred by the City. At the completion of the amendment process, the fee will be adjusted to reflect actual costs.

### **Strategic Implications**

This matter relates to Strategic Directions 3 "Housing and Land Uses" identified within the Council's Strategic Plan 2010-2015 which is expressed in the following terms: *Accommodate the needs of a diverse and growing population with a planned mix of housing types and non-residential land uses.*

### **Sustainability Implications**

The proposed Amendment No. 28 provides an opportunity for more effective use of land and expansion of employment opportunities within the locality. The rezoning of the land from Residential to Highway Commercial will allow a mix of residential and non-residential uses that can contribute towards increased local employment opportunities and urban infill which are objectives of the State Government and the City, in the interest of sustainability.

### **Conclusion**

To date, the proposed Amendment No. 28 has been supported by the Council. During the public consultation period, one submission was received expressing concerns in regard to the proposal. Some of these concerns have resulted in appropriate modifications to the Amendment, to the extent discussed in the attached documents.

Having regard to all of the submitter's comments and assessment of them by City Officers, the proposed modified Amendment should now be finally adopted by the Council and a recommendation that the Amendment proceed with modification be forwarded to the Minister.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.0.3</b>
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That ...

- (a) the Western Australian Planning Commission be advised that Council recommends that the single submission received, opposing Amendment No. 28, be **PARTIALLY UPHOLD** to the extent indicated in the Report on Submission at **Attachment 10.0.3(a)**;
- (b) Amendment No. 28 to Town Planning Scheme No. 6 is hereby finally adopted by the Council in accordance with the *Town Planning Regulations 1967 (as amended)*, and the Council hereby authorises the affixing of the Common Seal of Council to three copies of the **modified** Amendment No. 28 document, as required by those Regulations; and
- (c) the Report on Submission at **Attachment 10.0.3(a)**, the Schedule of Submissions at **Attachment 10.0.3(b)**, a copy of the submission and three executed copies of the **modified** Amendment No. 28 document at **Attachment 10.0.3(c)**, be forwarded to the Western Australian Planning Commission for final determination by the Minister for Planning.

CARRIED EN BLOC RESOLUTION

**10.1 STRATEGIC DIRECTION 1 : COMMUNITY**

**10.1.1 Minutes Special Electors Meeting 24 October 2011**

Location:	City of South Perth
Applicant:	Council
File Ref:	GO/109
Date:	26 October 2011
Author:	Kay Russell, Executive Support Officer
Reporting Officer:	P McQue, Manager Governance and Administration

**Summary**

The purpose of this report is to note the Minutes from the Special Electors Meeting held on Monday 24 October 2011.

**Background**

The Special Electors Meeting was called following receipt of a petition organised by Sharron Hawkins Zeeb of 6 Downey Drive, Manning together with 131 supporting signatures. The Petition was lodged by Ms Hawkins-Zeeb as a ratepayer. Ms Hawkins-Zeeb is now an Elected Member of the City of South Perth following the recent local government elections held on 15 October 2011.

The Text of the Petition reads:

*“We, the undersigned object to the redevelopment of No. 4 Downey Drive, Manning in the manner proposed by the Department of Housing and ask for your intervention to ensure that the property is subdivided and sold to private buyers consistent with the approach taken in relation to the disposal of other properties by the Department in Manning, or developed and immediately sold to private buyers.”*

As a result of the Petition, under a requirement of the *Local Government Act*, Section 5.28, a Special Electors Meeting was held on 24 October 2011 to discuss residents’ concerns.

**Comment**

The Minutes from the Special Electors Meeting held 24 October 2011 are at **Attachment 10.1.1**.

In accordance with section 5.33 of the *Local Government Act 1995*, the Council is required to consider any decisions that result from a Special Electors meeting. There was no Motion passed at the Special Electors Meeting held on 24 October 2011. However, comments raised at the meeting were taken into consideration. A report on the proposed development at No. 4 Downey Drive, Manning will form part of the November 2011 Council Agenda.

Although there was no Motion moved by ratepayers in attendance at the Special Electors Meeting on 24 October, it was clear from the issues raised at the meeting that there is general discontent with the level of Department of Housing rental properties in Manning and the rate of disposal of these properties which is not as fast as the local community would like. On this basis it is the intention of the Mayor and CEO to meet with the Local Member for South Perth John McGrath, MLA and the Regional Manager of the Department of Housing to discuss this and other related issues further.

**Consultation**

Notice of the Special Electors’ Meeting scheduled for 24 October 2011 was advertised in the:

- in the Southern Gazette newspaper on 4 and 18 October 2011;
- on the City's web site; and
- on the Public Noticeboards at the Civic Centre and the Libraries

**Policy Implications**

This issue has no impact on this particular area.

**Financial Implications**

This issue has no impact on this particular area.

**Strategic Implications**

The Special Electors Meeting was called in accordance with the provisions of the *Local Government Act*. The calling of the meeting aligns with the Strategic Plan Direction 1 - *Community - create opportunities for a safe, active and connected community*.

**Sustainability Implications**

This report contributes to the City’s sustainability by promoting effective communication and community participation. .

**OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.1.1.**

That the Minutes of the Special Electors Meeting dated 24 October 2011 at **Attachment 10.1.1** be received.

CARRIED EN BLOC RESOLUTION

**10.2 STRATEGIC DIRECTION 2: ENVIRONMENT**

Nil

**10.3 STRATEGIC DIRECTION 3: HOUSING AND LAND USES**

**10.3.1 Proposed Change Of Use (from Office to Consulting Rooms) - Lot 409 (No. 3/56) Ley Street, Como**

Location:	Lot 409 (No. 3/56) Ley Street, Como - Strata Lot 3		
Applicant:	Ms T J Herbert		
Lodgement Date:	21 September 2011		
File Ref:	11.2011.423.1	LE5/56	
Date:	1 November 2011		
Author:	Cameron Howell, Planning Officer, Development Services		
Reporting Officer:	Vicki Lummer, Director, Development & Community Services		

**Summary**

To consider an application for planning approval for a Change of Use (from Office to Consulting Rooms) on Lot 409 (No. 3/56) Ley Street, Como. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Land use	TPS6 Clause 3.3 and Table 1
Car parking provision	TPS6 Clause 7.8(1)

It is recommended that the proposal be approved subject to conditions.



**Background**

The development site details are as follows:

<b>Zoning</b>	Highway Commercial
<b>Density coding</b>	R80
<b>Lot area</b>	1,017 sq. metres (Lot 409) 89.0 sq. metres (Strata Lot 3) - 61.0 sq. metres (tenancy) and 28 sq. metres (car bays)
<b>Building height limit</b>	7.0 metres
<b>Development potential</b>	Permissible land uses, as listed in Table 1 of TPS6
<b>Plot ratio limit</b>	0.50

This report includes the following attachments:

**Confidential Attachment 10.3.1(a)** Plans of the proposal.

**Attachment 10.3.1(b)** Site photographs.

The location of the development site is shown below:



In accordance with Council Delegation DC342, the proposal is referred to a Council meeting because it falls within the following categories described in the delegation:

3. **The exercise of a discretionary power**  
 (b) Applications which, in the opinion of the delegated officer, represents a significant departure from the Scheme, the Residential Design Codes or relevant planning policies.
6. **Amenity impact**  
 In considering any application, the delegated officers shall take into consideration the impact of the proposal on the general amenity of the area. If any significant doubt exists, the proposal shall be referred to a Council meeting for determination.
7. **Neighbour comments**  
 In considering any application, the assigned delegate shall fully consider any comments made by any affected landowner or occupier before determining the application.

**Comment**

**(a) Background**

In September 2011, the City received an application for a Change of Use (from Office to Consulting Rooms) for Strata Lot 3 in a two storey building on Lot 409 (No. 3/56) Ley Street, Como (the site).

**(b) Existing development on the subject site**

The existing development on the site is a two storey building which currently features land uses of “Shop” and “Office”, as depicted in the site photographs at **Attachment 10.3.1(b)**. Strata Lot 3, located on the upper floor of the existing building, was approved as an “Office” by Council when the building was granted planning approval in August 2007.

**(c) Description of the surrounding locality**

The site has a frontage to Ley Street to the west, located adjacent to a single storey service station to the north, vacant land to the south, a single storey single house to the south-east, and opposite single storey shops to the west, as seen in **Figure 1** below:



The single storey single house at 2 Downey Drive, shown in Figure 1 above, has since been demolished. Council approved a three storey Mixed Development on this site in May 2011. A three storey Mixed Development is proposed at 4 Downey Drive.

**(d) Description of the proposal**

The proposal involves a Change of Use (from Office to Consulting Rooms) on the site, as depicted in the submitted plans at **Confidential Attachment 10.3.1(a)**. The applicant proposes to occupy the site as a Clinical Psychologist with one other practitioner. A maximum of one practitioner and no support staff are proposed to be operating at any time. No external alterations to the existing building or any external signs are proposed. Furthermore, the site photographs show the relationship of the site with the surrounding built environment at **Attachment 10.3.1(b)**.

The proposal complies with the Scheme and relevant Council policies, with the exception of the remaining non-complying aspects and other significant matters, all discussed below.

**(e) Land use**

The proposed land use of “Consulting Rooms” is classified as a “DC” (Discretionary with Consultation) land use in Table 1 (Zoning - Land Use) of TPS6. In considering this “Discretionary with Consultation” use, it is observed that the site adjoins non-residential and residential land uses in a location with a non-residential streetscape. Council approved a Change of Use (from Office to Consulting Rooms) on the site for Strata Lot 4 in October 2008, for one practitioner and on e support staff. Accordingly, the use is regarded as complying with Table 1 of the Scheme.

**(f) Car parking**

As background information, when the two storey building was approved in August 2007, the development was approved with a shortfall of 5 car parking bays. The applicant’s justification at that time was accepted that the existing car parking bays within the Ley Street road reserve will be able to cater for these 5 bays.

The existing office space (Strata Lot 3), which is subject of this change of use application, required 4 car parking bays in accordance with TPS6 provisions. The approved overall shortfall of car parking for the entire development resulted in only 2 bays, plus a shared use of a disabled bay being allocated for the subject office space (Strata Lot 3) instead of the required 4 bays. Since the office space has been lying vacant, it is not possible to assess whether this on-site allocation of 2 and part use of the disabled parking bay has been sufficient for the tenancy, and in addition, whether any vacant bays within the road reserve were available to cater to the on-site car parking shortfall.

This “Consulting Rooms” proposal requires 7 on-site car parking bays, as against 4 required by the “Office” use as stated above. This finally results in a shortfall of 3 car bays. On this basis, the proposed development does not comply with the car parking requirement prescribed by Table 6 of TPS6.

Council has discretionary power under Clause 6.3.4 of TPS6 to approve the proposed car parking if Council is satisfied that all requirements of that clause have been met. The applicant has provided justification based upon the demand generated by the use. The applicant has stated that at any one given time, the peak parking demand will be for 3 car bays; one for the practitioner, one for the client and one for a client waiting for the next appointment. The applicant is of the opinion that the “waiting client” can park either on Ley Street or in the City car park on the corner of Downey Drive. Additionally, the applicant has advised of her intention to walk to the site as the applicant’s residence is located within walking distance of the site.

Based upon the above discussion, City officers are of the opinion that the peak parking demand of 3 could be considered sufficient for the proposed “Consulting Rooms”. Since 2 bays and part use of the disabled parking bay have been allocated on-site, a shortfall of one bay can be catered to by the existing street parking within Ley Street.

In this instance, it is considered that the proposal complies with the discretionary clause and is therefore supported by the City. It is recommended that the proposed car parking be approved.

**(g) Bicycle parking**

The required number of bicycle bays is one, with one clothes locker, and the existing development has 6 bicycle bays with 3 clothes lockers on-site, shared between all tenancies. The existing building required 3 bicycle bays and 3 clothes lockers, though an additional 3 bicycle bays were provided. The additional bicycle bay required by a "Consulting Room" can be provided on-site, using existing facilities. The applicant has advised that a suitable facility for hanging up clothing will be provided. Therefore, the proposed development complies with Clause 6.4 and Table 6 of TPS6.

**(h) Scheme Objectives - Clause 1.6 of Town Planning Scheme No. 6**

In considering the application, Council is required to have due regard to and may impose conditions with respect to matters listed in Clause 1.6 of TPS6 which are, in the opinion of Council, relevant to the proposed development. Of the 12 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (a) *Maintain the City's predominantly residential character and amenity;*
- (d) *Establish a community identity and "sense of community" both at a City and precinct level, and to encourage more community consultation in the decision-making process;*
- (e) *Ensure community aspirations and concerns are addressed through Scheme controls;*
- (f) *Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*
- (g) *Protect residential areas from the encroachment of inappropriate uses;*
- (i) *Create a hierarchy of commercial centres according to their respective designated functions, so as to meet the various shopping and other commercial needs of the community;*
- (j) *In all commercial centres, promote an appropriate range of land uses consistent with:*
  - (i) *the designated function of each centre as set out in the Local Commercial Strategy; and*
  - (ii) *the preservation of the amenity of the locality.*

The proposed development is considered satisfactory in relation to all of these matters, subject to the recommended conditions.

**(i) Other Matters to be Considered by Council - Clause 7.5 of Town Planning Scheme No. 6**

In considering the application, Council is required to have due regard to and may impose conditions with respect to matters listed in Clause 7.5 of TPS6 which are, in the opinion of Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (a) *The objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*
- (b) *The requirements of orderly and proper planning, including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought;*
- (f) *Any planning Council policy, strategy or plan adopted by Council under the provisions of Clause 9.6 of this Scheme;*
- (i) *The preservation of the amenity of the locality;*
- (s) *Whether the proposed access and egress to and from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvre and parking of vehicles on the site;*

- (t) *The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (w) *Any relevant submissions received on the application, including those received from any authority or committee consulted under Clause 7.4; and*
- (x) *Any other planning considerations which Council considers relevant.*

The proposed development is considered satisfactory in relation to all of these matters, subject to the recommended conditions.

**Consultation**

**(a) Design Advisory Consultants’ comments**

The application did not require referral to the Design Advisory Consultants as no external alterations to the existing building are proposed.

**(b) Neighbour consultation**

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 “Consultation for Planning Proposals”. Under the “Area 1” consultation method, individual property owners, occupiers and / or strata bodies at Nos. 2, 4, 6, and 6A Downey Drive, Nos. 1/56, 2/56, 4/56, 61 and 63-65 Ley Street and Nos. 1/71, 2/71, 3/71, 4/71, 5/71, 73 and 77 Manning Road were invited to inspect the plans and to submit comments during a minimum 14-day period.

During the advertising period, a total of 27 consultation notices were sent and one submission was received in favour, and none against the proposal. The comment from the submitter, together with officer response is summarised below.

Submitter’s Comment	Officer Response
No objection to the proposed change of use.	Officers have recommended that the change of use be approved. The comment is NOTED.

**(c) Internal administration**

Comments were invited from Environmental Health section of the City’s administration. The Environmental Health section provided comments with respect to noise. This section raises no objections and has provided recommended important notes. Accordingly, important notes are recommended to respond to the comments from the above officer.

**(d) External agencies**

This application does not require comments from any external agency.

**Policy and Legislative Implications**

Comments have been provided elsewhere in this report in relation to the various provisions of the Scheme, R-Codes and Council policies, where relevant.

**Financial Implications**

This determination has no financial implications.

**Strategic Implications**

This matter relates to Strategic Direction 3 “Housing and Land Uses” identified within Council’s Strategic Plan which is expressed in the following terms:

*Accommodate the needs of a diverse and growing population with a planned mix of housing types and non-residential land uses.*

**Sustainability Implications**

Being non-residential land uses of a non-sensitive nature, it is considered that the development enhances sustainability by providing local businesses and employment opportunities.

**Conclusion**

It is considered that the proposal meets all of the relevant Scheme and Council Policy objectives and provisions, as it will not have a detrimental impact on adjoining residential neighbours and streetscape. Provided that all conditions are applied as recommended, it is considered that the application should be conditionally approved.

**OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.3.1**

That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for planning approval for a Change of Use (from Office to Consulting Rooms) on Lot 409 (No. 3/56) Ley Street, Como, **be approved** subject to:

(a) **Standard Conditions**

661 Expiry of approval

(b) **Specific Conditions**

- (i) A maximum of one practitioner shall consult from the premises at any time.
- (ii) End of trip facilities for cyclists shall be provided for the use of staff. The design and location of those facilities shall be indicated on the drawings, while ensuring that the facilities are provided at the following ratios, in addition to the clothes lockers previously approved on-site:
  - (A) Number of secure clothes lockers (or similar facilities) - 1.

(c) **Standard Advice Notes**

700A	Building licence required	790	Minor variations - Seek approval
720	Strata note - Comply with that Act	795B	Appeal rights - Council decision

(d) **Specific Advice Notes**

The applicant is advised that:

- (i) It is the applicant's responsibility to liaise with the City's Environmental Health section to ensure satisfaction of all of the relevant requirements with regard to:
  - (A) Noise generally  
All mechanical ventilation services, motors and pumps, e.g. air conditioners, to be located in a position so as not to create a noise nuisance as determined by the *Environmental Protection Act 1986* and *Environmental Protection (Noise) Regulations 1997*.

**Footnote** A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.

CARRIED EN BLOC RESOLUTION

**10.3.2 Policies P351.5 and P351.6: Streetscape Compatibility - Precinct 5 'Arlington' and Precinct 6 'Kensington'**

Location:	City of South Perth
Applicant:	Council
File Ref:	LP/801/14/5 and LP/801/14/6
Date:	1 November 2011
Author:	Rod Bercov, Strategic Urban Planning Adviser
Reporting Officer:	Vicki Lummer, Director Development and Community Services

### **Summary**

For some time, it has been Council's intention to introduce streetscape compatibility policies for the Arlington and Kensington Precincts. Council has been periodically informed of the progress in this regard. Draft policies have now been prepared by consultants for each Precinct.

Council is requested to endorse the draft Policies P351.5 and P351.6 for the purpose of advertising for public submissions.

### **Background**

In connection with the proposed Kensington and Arlington streetscape compatibility policies, Council has engaged TPG (The Planning Group) planning consultants to undertake extensive community engagement and to prepare the policies. Council has been kept informed of progress by way of Bulletin items and briefings by the consultant on 5 April and 3 October 2011.

A community workshop was held on 26 May for the Arlington Precinct and a similar workshop was held on 31 May for the Kensington Precinct.

In the subsequent preparation of draft policies, the consultants have endeavoured to reflect the views expressed by the workshop participants. At the Council Members' briefing on 3 October, the principal consultant described the community engagement process, the views expressed at the workshops and the provisions in the draft policies.

### **Comment**

The provisions in both of the draft policies are almost identical. However, certain additional provisions are contained within the Arlington policy. The content of the policies is as follows:

#### Kensington Policy

- Policy Objectives
  1. To preserve or enhance desired streetscape character by controlling bulk and scale
  2. To enhance standards of residential amenity
  3. To provide guidance as to Council's expectations
  4. To identify which neighbouring dwellings are to be included when assessing streetscape compatibility
- Policy Scope

All residential development within Kensington Precinct
- Localised Approach

The terms 'Immediate Assessment Area' and 'Wider Assessment Area' have been defined to identify the extent of properties in the vicinity of a development site which are to be taken into account when assessing streetscape compatibility.
- Definitions

The Policy includes definitions of the following terms:

  - amenity
  - facade
  - frontage
  - front setback area
  - roof visible from the street
  - scale

- Streetscape Elements Not Subject to Control
  - Architectural style
  - Building colours and materials (including front fences and roofing materials)
  - Private gardens
- Building bulk and Scale
  - upper storey to be concealed within roof space or set back a further 3 metres.
  - unroofed balconies permitted within upper storey setback area
  - variations may be supported subject to adequate justification by applicant
  - roof pitch to be between 25 degrees and 45 degrees
  - butterfly, curved, flat or skillion roof forms not permitted
  - eaves required for all roofs visible from the street
- Setbacks
  - averaging of street setbacks not permitted unless dwellings on each side have 'averaged' setbacks
  - verandahs permitted to extend up to 2 metres forward of street setback line
- Fencing
  - requirements for fences within front setback area and on secondary street boundaries the same as for fences elsewhere except:
  - maximum permissible height of the 'solid' base of fence is 0.9 metres (1.2 metres elsewhere).
- Car Parking
  - garages not permitted within front setback area
  - visually permeable single and double carports permitted within front setback area subject to construction materials and roof form being similar to those of the related dwelling
- Outbuildings

No outbuildings other than a visually permeable carport are permitted within the front setback area.

#### Arlington Policy

The provisions in the Arlington Policy are predominantly the same as those in the Kensington Policy. The exceptions are as follows:

- Building bulk and scale
  - the additional upper storey setback is only required where this is characteristic of the existing dwellings in the Immediate Assessment Area or Wider Assessment Area.
  - the pitch of the roof is only restricted to the range between 25 degrees and 45 degrees where roofs within this range are characteristic of the existing dwellings in the Immediate Assessment Area or Wider Assessment Area.
- Car parking

In addition to a single or double carport, up to 25% of the front setback area may have a hard-standing surface for car parking.



**Consultation**

**(a) City Planning Officers**

The City’s Strategic Planning Officers and the Manager Development Services have had significant input into the draft policies prepared by the consultants.

**(b) Community Workshops**

Part A of the community engagement was in the form of the workshops for Arlington and Kensington Precinct landowners. Letters were sent to a total of 2,539 landowners in the two precincts inviting interested people to participate in the workshops. Approximately 28 people from Arlington and 43 from Kensington accepted the invitation.

Part B of the community engagement will be implemented through advertising of the draft policies inviting comments from the wider community. Further comments on the forthcoming ‘public consultation’ phase are contained in Part (c) below.

**(c) Public Consultation**

Public consultation on the draft policies will be undertaken in accordance with clause 9.6(2) of the City’s Town Planning Scheme No. 6 (TPS6) and Council Policy P301: *Consultation for Planning Proposals*.

Advertising of the draft policies will involve a notice in the *Southern Gazette* newspaper for two consecutive weeks giving details of the nature and subject of the draft policies, where they can be viewed and in what format submissions may be made. The policies will be on display at the City’s libraries, the Civic Centre, and on the City’s website. The required minimum advertising period is 21 days from the date of publication of the first newspaper notice. However, for the policies in question, it is suggested that the advertising period should be not less than 4 weeks.

Council Policy P301 states that Planning proposals are not to be advertised during the popular holiday period between mid-December and mid-January. In accordance with P301, unless advertising can be timed so as to conclude prior to mid-December, the advertising is not to commence until mid-January. Having regard to this Policy provision, advertising of the Arlington and Kensington draft policies will commence in mid-January 2012.

An indicative time frame for the policies to be finalised is set out in the following table.

<b>Stages of Advertising and Adoption</b>	<b>Estimated Time Frame</b>
Council resolution to adopt draft Policies P351.5 & 6 for advertising	22 November 2011
Public advertising period of not less than 4 weeks	Commencing mid-January 2012
Council review of the draft Policies in light of submissions received, and resolution to formally adopt the policies with/without modification, or not proceed	Council meeting March 2012
Publication of a notice in one issue of the <i>Southern Gazette</i> , advising of Council’s resolution	April 2012

### **Policy and Legislative Implications**

A planning policy is adopted under clause 9.6 of TPS6. Under clause 1.5, planning policies are documents that support the Scheme.

A planning policy is not part of TPS6 and does not bind the Council in respect of any application for planning approval but the Council is to have due regard to its objectives and provisions before making a determination on a development application.

Planning policies are guidelines used to assist Council in making decisions under TPS6. Although planning policies are not part of TPS6, they must be consistent with, and cannot vary, the intent of TPS6 provisions, including the *Residential Design Codes*.

When Policies P351.5 and P351.6 have been adopted in their final form after consideration of public submissions, the existing City-wide Policy P302: *General Design Guidelines for Residential Development* will no longer be applicable to any land within the Arlington and Kensington precincts.

### **Financial Implications**

The City is responsible for costs associated with preparation and adoption of the policies. The principal cost is the consultants' fee, which is accommodated in the current Budget.

### **Strategic Implications**

This matter relates to Strategic Direction 3 "Housing and Land Uses" identified within the Council's Strategic Plan 2010-2015, which is expressed in the following terms: *Accommodate the needs of a diverse and growing population with a planned mix of housing types and non-residential land uses.*

### **Sustainability Implications**

The policies will assist the City in more effectively regulating the design of dwellings in the Arlington and Kensington Precincts with the object of maintaining streetscape compatibility. This will contribute to the sustainability of the 'built environment' of those precincts.

### **Conclusion**

The proposed precinct-specific policies are expected to be more effective instruments in maintaining streetscape compatibility than the existing City-wide Policy P302 'General Design Guidelines for Residential Development'. Council is requested to adopt the draft policies for advertising for public submissions.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.3.2</b>
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That...

- (a) in accordance with clause 9.6 of the City of South Perth Town Planning Scheme No. 6, the *draft* Planning Policies P351.5 and P351.6: Streetscape Compatibility - Precinct 5 'Arlington' and Precinct 6 'Kensington' at **Attachments 10.3.2(a)** and **10.3.2(b)** be adopted for advertising;
- (b) public advertising of the *draft* Policies be implemented in accordance with Council Policy P301 *Consultation for Planning Proposals* for a period of not less than four weeks; and
- (c) a report on any submissions received be presented to the earliest available Council meeting following the conclusion of the advertising period.

CARRIED EN BLOC RESOLUTION

**10.3.3 Unapproved Conversion of a Carport to Garage (Single House) - Lot 51 (No. 3) Hovia Terrace, South Perth**

Location: Lot 51 (No. 3) Hovia Terrace, South Perth  
 Applicant: Tracey Chester  
 Lodgement Date: 05 August 2011  
 File Ref: 11.2011.334 HO4/3  
 Date: 1 November 2011  
 Author: Trinh Nguyen, Planning Officer, Development Services  
 Reporting Officer: Vicki Lummer, Director, Development & Community Services

**Summary**

To consider a retrospective application for planning approval for the conversion of a carport, located within the front setback area of a Single House, to a garage on Lot 51 (No. 3) Hovia Terrace, South Perth. The report was withdrawn by the property owner from being considered at the September 2011 meeting due the owner not being able to make a deputation at that meeting, and desiring to address Council at this month's meeting.

Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Compatibility with the existing streetscape character	Council Policy P302 "General Design Guidelines for Residential Development"
Insufficient clearances from side walls on either side of the car parking bays	Clause 6.3 and Figure 7 Schedule 5 of Town Planning Scheme (TPS6)
Sight lines at vehicle access points - Obstructions within the visual truncations adjacent to the formed driveway	Clause 6.2.6 of the R-Codes 2010 and Clause 5(a) of Council Policy P350.7 "Fencing and Retaining Walls"

The approved carport within the front setback area, by virtue of its open nature, was visually acceptable in the street. However, its conversion into a garage with solid walls around and a solid door fronting the street, while being located within the front setback area, is observed to detract from the existing streetscape character of Hovia Terrace. Therefore, the officers recommend that the garage application be refused, and the owners be advised to re-instate the carport.

**Background**

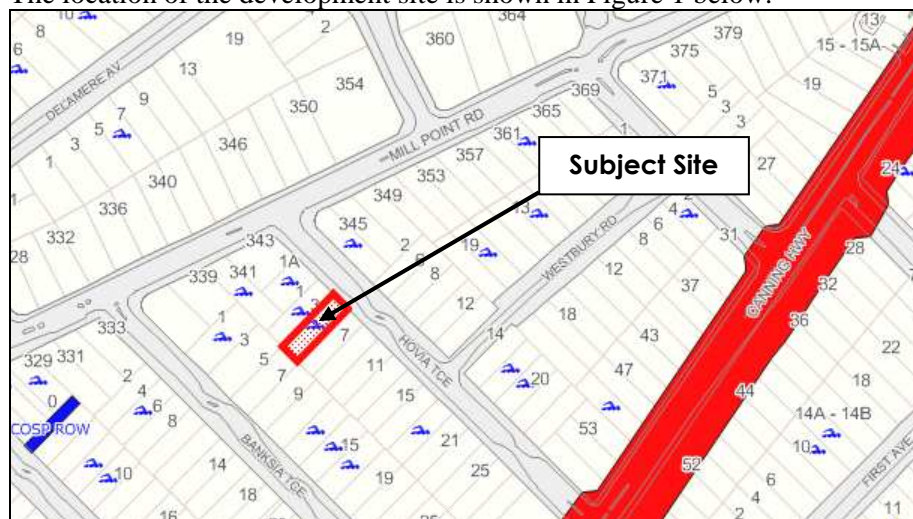
The development site details are as follows:

<b>Zoning</b>	Residential
<b>Density coding</b>	R15
<b>Lot area</b>	515 sq. metres
<b>Building height limit</b>	7.0 metres

This report includes the following attachments:

**Confidential Attachment 10.3.3(a)** Plans of the proposal.  
**Attachment 10.3.3(b)** Site photographs.

The location of the development site is shown in Figure 1 below:



**Figure 1 - Subject site, 3 Hovia Terrace (2011)**

In accordance with Council Delegation DC342, the retrospective application is referred to a Council meeting because it falls within the following categories described in the delegation:

**1. The exercise of a discretionary power**

- (c) Applications which, in the opinion of the delegated officer, represents a significant departure from the Scheme, the Residential Design Codes or relevant planning policies.

**Comments**

**(a) Background**

In August 2010 the City received a letter, which did not identify the complainant's address, expressing concerns about the conversion of a carport to a garage at the subject property. A review of the property records confirmed that there was no approval issued by the City to convert the carport to a garage.

A series of communication with the property owner resulted in the City receiving a retrospective application for the above described conversion. Following an assessment, the application was refused in November 2010 for the reasons of non-compliance with matters identified as elements requiring exercise of discretion under the "Summary" section at the beginning of this report. Additionally, an important note advised the owner of the need to re-instate the carport as per the original approval to comply with the relevant TPS6 and policy provisions, or modify the structure to comply with the definition of a carport.

The City was informed that this action will be delayed as the owner had been unwell, and in and out of hospital. On compassionate grounds, the City responded by providing additional time to achieve compliance. In June 2011, City officers met with a representative of the owner to discuss alterations to the garage that will assist with achieving compliance within the definition of a carport. As discussed, the alterations required include:

- (i) Lowering the solid walls of the garage, on its sides and rear, to a maximum height of 1.2 metres, and using visually permeable material such as wrought iron fencing above to provide the required security for the vehicles;

- (ii) Using a visually permeable door instead of the solid door; and
- (iii) Either truncating a 1.5 metre × 1.5 metre corner of the portion of fence on the right side of the formed driveway, or lowering this portion of solid fence to a height of no more than 0.75 metres and keeping visually permeable fence above.

Carrying out of the above works would have achieved compliance with the planning provisions and provided the level of security sought by the residents. In August 2011, the owner formally requested that the matter be reviewed by Council. The application does not propose any amendments to the previously refused structure.

**(b) Existing development on the subject site**

The subject site features a two storey single house. A carport to the house was approved in September 2004 as part of a proposal for a single house on the site. The City was notified of the conversion of the approved carport to an unapproved garage in August 2010, as depicted in the submitted plans at **Confidential Attachment 10.3.3(a)**.

**(c) Description of the surrounding locality**

The subject development fronts Hovia Terrace. The focus area is bounded by Mill Point Road towards the north-west and Canning Highway to the south-east. The property is situated adjacent to residential development on both side boundaries, as seen in **Figure 2** below:



*Figure 2 - Subject site, 3 Hovia Terrace (2011)*

**(d) Description of planning issues**

The following components of the retrospective development do not satisfy TPS6 and Council policy requirements:

(i) **Compatibility with the existing streetscape character**

The following definitions from the R-Codes delineate the difference between a carport and a garage:

Carport is “a roofed structure designed to accommodate one or more vehicles unenclosed except to the extent that it abuts a dwelling or a property boundary on one side, and being without a door unless that door is visually permeable”; while

Garage is “a roofed structure, other than a carport, designed to accommodate one or more motor vehicles and attached to the dwelling”

The carport at No. 3 Hovia Terrace has been enclosed on all four sides by rendered brickwork to the sides and rear, and a garage door to the front. In accordance with the definitions of the R-Codes, the structure is hence defined as a garage rather than a carport.

The garage structure with solid walls around and a solid door fronting the street, while being located within the front setback area, is observed to detract from the existing streetscape character of Hovia Terrace. Clause 8(c) of Policy 350.3 states that where an existing carport is set back less than 4.5 metres from the street, the City will not approve conversion of that carport to a garage unless it would comply with the R-Codes setback requirement for garages. The carport with an approved street setback of 1.5 metres was compliant with the policy provisions. However, the converted garage does not comply with the setback requirements prescribed by the acceptable development provision A3.5 of Clause 6.2.3 “Setback of garages and carports” of the R-Codes 2010.

(ii) **Dimensions of the garage**

The enclosure of the carport has resulted in the reduction of the double car parking bay width of 5.6 metres to 5.55 metres. Officers observed this minor variation of 5.0 cm or 50.0 mm to the requirements prescribed by Clause 6.3 and Schedule 5 of TPS6, as capable of being approved. This view was taken into consideration while discussing modifications with the representative for the owner, as identified in the “Background” section of the report.

(iii) **Sight lines at vehicle access points**

The solid 1.8 metre high fence along the right side of the formed driveway results in an obstruction within the 1.5 metre × 1.5 metre visual truncation on this side. This area is required to be kept clear for safety reasons in order for the reversing vehicle and pedestrians to view each other. Alternatively, as stated in Clause 5(a) of Council Policy P350.7 “Fencing and Retaining Walls” which refers to Clause 6.2.6 A6 “Sight lines at vehicle access points and street corners” of the R-Codes, the height of obstruction is restricted to a maximum of 0.75 metres within a 1.5 metre × 1.5 metre triangular corner truncation area adjacent to the intersection of the formed driveway and the boundary of the public street. As seen in **Attachment 10.3.3(b)**, the fence does not meet this requirement.

**(5) Scheme Objectives - Clause 1.6 of Town Planning Scheme No. 6**

In considering the application, Council is required to have due regard to and may impose conditions with respect to matters listed in Clause 1.6 of TPS6 which are, in the opinion of Council, relevant to the proposed development. Of the 12 listed matters, the following matter is particularly relevant to the current application and requires careful consideration:

- (f) *Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development.*

The officers observe that the conversion of the carport to a garage does not demonstrate compliance with the above matter.

**(6) Other Matters to be Considered by Council - Clause 7.5 of Town Planning Scheme No. 6**

In considering the application, Council is required to have due regard to and may impose conditions with respect to matters listed in Clause 7.5 of TPS6 which are, in the opinion of Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration.

- (a) *The objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*
- (c) *The provisions of the Residential Design Codes and any other approved Statement of Planning Council Policy of the Commission prepared under Section 5AA of the Act;*
- (f) *Any planning Council policy, strategy or plan adopted by Council under the provisions of Clause 9.6 of this Scheme;*
- (i) *The preservation of the amenity of the locality;*
- (j) *All aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance; and*
- (n) *The extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details.*

The officers observe that the conversion of the carport to a garage does not demonstrate compliance with the above matters.

**Consultation**

**(a) Neighbour consultation**

The proposed conversion to a garage did not require consultation in accordance with Policy P355.

**(b) Engineering Infrastructure Services**

These comments only relate to the power pole which is currently located within the street verge, directly in line with the middle of the carport. Manager, Engineering Infrastructure has been informed by Western Power that a mutual agreement has been reached with the owner that following the payment of costs associated with the works, the relocation of the power pole will be scheduled to occur within a month. This will facilitate convenient entry into and exit from the car parking structure.

### **Policy and Legislative Implications**

Comments in relation to various relevant provisions of Town Planning Scheme No. 6, the R-Codes and Council policies have been provided elsewhere in this report.

### **Strategic Implications**

This matter relates to Strategic Direction 6 “Housing and Land Uses” identified within Council’s Strategic Plan which is expressed in the following terms:

*Accommodate the needs of a diverse and growing population with a planned mix of housing types and non-residential land uses.*

### **Sustainability Implications**

Due to the location of the garage within the front setback area, the structure is observed to have a detrimental impact on the immediate residential amenity and the existing streetscape character. Therefore, the proposal is seen to be unsustainable.

### **Conclusion**

It is considered that the garage within the front setback area with a 1.5 metre setback from the street alignment does not meet all of the relevant Scheme, R-Codes and / or Council policy objectives and provisions, as it has the potential to have a detrimental impact on the immediate residential amenity and the existing streetscape character. Based upon the current situation, officers recommend that the application be refused. At the same time, officers have advised the owner of the required modifications to the structure to bring it into compliance with the planning requirements. These modifications have been recommended as important notes.

### **OFFICER RECOMMENDATION ITEM 10.3.3**

That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this retrospective application for planning approval for the conversion of a carport to a garage on Lot 51 (No. 3) Hovia Terrace **be refused** for the following reasons:

#### **(a) Specific Reasons**

- (i) The location of the garage within the front setback area with a 1.5 metre setback from the street alignment conflicts with Clause 8(c) of Policy 350.3 “Car Parking Access, Siting, and Design” and Clause 6.2.3 “Setback of garages and carports” of the R-Codes 2010.
- (ii) The solid 1.8 metre high fence along the right side of the formed driveway results in an obstruction within the 1.5 metre × 1.5 metre visual truncation on this side, hence conflicts with Clause 5(a) of Policy P350.7 “Fencing and Retaining Walls” and Clause 6.2.6 “Sight lines at vehicle access points and street corners” of the R-Codes 2010.
- (iii) Having regard to the reasons (i) and (ii) identified above, the development conflicts with subclause (f) under Clause 1.6.2 “Scheme Objectives” of TPS6.
- (iv) Having regard to the reasons (i) and (ii) identified above, the development conflicts with subclauses (a), (c), (f), (i), (j) and (n) listed under Clause 7.5 “Matters to be Considered by Council” of TPS6.



**(b) Important Notes**

- (i) The applicant / owner are advised that the converted garage structure be brought into compliance with the previously approved carport structure within 35 days from the date of issue of this planning refusal. Otherwise, the City will commence necessary prosecution actions.
- (ii) In the alternative, if the applicant / owner intend to carry out modifications to the garage as previously discussed with the officers, they should confirm in writing to the City their intention to commence works on-site within 28 days from the date of issue of this planning refusal. Prior to commencing works on-site, two complete sets of drawings showing the proposed modifications are to be submitted to the City incorporating the following:
  - (A) Lowering the solid walls of the garage, on its sides and rear, to a maximum height of 1.2 metres and using visually permeable material above, such as wrought iron fencing to provide the required security for the vehicles;
  - (B) Using a visually permeable door instead of the solid door; and
  - (C) Either truncating a 1.5 metre × 1.5 metre corner of the portion of fence on the right side of the formed driveway, or lowering this portion of solid fence to a height of no more than 0.75 metres and providing visually permeable fence above.
- (iii) The applicant / owner are also advised to liaise with the City's Building Services with regards to the need for obtaining a building licence before commencing any work of a structural nature.
- (iv) If you are aggrieved by aspects of the decision where discretion has been exercised, you may investigate the ability to lodge an appeal with the State Administrative Tribunal within 28 days of the determination date recorded on this notice.

**OFFICER RECOMMENDATION**

The Mayor called for a mover/seconded of the officer recommendation at Item 10.3.3. The officer recommendation Lapsed.

**MOTION**

Moved Cr Trent, Sec Cr Howat

That...

- (a) the officer recommendation not be adopted;
- (b) pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, the application for planning approval for conversion of a Carport to Garage (Single House) on Lot 51 (No. 3) Hovia Terrace, South Perth, **be approved** subject to:
  - (i) **Standard Conditions**  
Nil
  - (ii) **Standard Advice Notes**  
648 Building Licence required
  - (iii) **Specific Condition**  
The portion of fence on the north west side of the formed driveway is to be removed and rebuilt so that it minimises the obstruction into the 1.5m x 1.5m visual truncation.

<p><b>Footnote:</b> A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.</p>
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MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Trent Opening for the Motion

- refer drawings attached to report - sufficient room for visual truncation to be approved
- structure in question is already built
- garage a well built structure of material matching main structure
- *draft* Housing Strategy includes an area subject to change- eastern side of Hovia Terrace
- streetscape currently not uniform/ mix of original houses /modern homes
- Arlington Streetscape policy is in *draft* form - not yet out for comment
- ask Members support retrospective approval of structure already built

Cr Howat for the Motion

- support alternative Motion as logical resolution to this case
- garage provides security for resident
- believe we need to get our priorities right - well maintained residence
- support Motion

Cr Grayden point of clarification - will the alternative specific condition re the truncation address the streetscape issue originally raised?

Director Development and Community Services responded that the amendment will not go all the way to solving the streetscape issue. However, changing the north-west side of the fence will go towards the safety issue when reversing out of the garage.

**COUNCIL DECISION ITEM 10.3.3**

The Mayor Put the Motion

That...

- (a) the officer recommendation not be adopted;
- (b) pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, the application for planning approval for conversion of a Carport to Garage (Single House) on Lot 51 (No. 3) Hovia Terrace, South Perth, **be approved** subject to:
  - (i) **Standard Conditions**  
Nil
  - (ii) **Standard Advice Notes**  
648 Building Licence required
  - (iii) **Specific Condition**  
The portion of fence on the north west side of the formed driveway is to be removed and rebuilt so that it minimises the obstruction into the 1.5m x 1.5m visual truncation.

**Footnote:** A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.

CARRIED (11/0)

Reason for Change

Council were of the view the Alternative Motion was a logical solution to the particular case and that the inclusion of Specific Condition (b)(iii) significantly addressed the streetscape issue.

**DECLARATION OF INTEREST : ITEM 10.3.4 : CR HAWKINS-ZEEB**

The Mayor read aloud the following Declaration of Interest:

*In accordance with the section 5.60(A)(B) of the Local Government Act 1995 I wish to declare a Financial and Proximity Interest in Agenda Item 10.3.4 on the Council Agenda for the meeting to be held 22 November 2011. I disclose that I am the owner/occupier of No. 6 Downey Drive, Manning an adjoining neighbour to the proposed Mixed Development at No. 4 Downey Drive Manning.*

*In view of this I will leave the Council Chamber at the Agenda Briefing on 15 November and the Council Meeting on 22 November and not participate in the discussion or vote on this matter.*

**Note:** Cr Hawkins-Zeeb left the Council Chamber at 8.08pm

<b>10.3.4 Proposed Mixed Development (6 Multiple Dwellings and Office) in a Three Storey Building - Lot 407 (No. 4) Downey Drive, Manning</b>
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Location:	Lot 407 (No. 4) Downey Drive Manning - Proposed Lot 411		
Applicant:	Peter Jodrell Architect		
Lodgement Date:	11 April 2011		
File Ref:	11.2011.171.1	DO4/4	
Date:	1 November 2011		
Author:	Cameron Howell, Planning Officer, Development Services		
Reporting Officer:	Vicki Lummer, Director, Development & Community Services		

**Summary**

To consider an application for planning approval for a Mixed Development (6 Multiple Dwellings and Office) in a three storey building on Lot 407 (No. 4) Downey Drive, Manning. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Land use	TPS6 Clause 3.3 and 5.4(4)(b)
Car parking provision	TPS6 Clause 7.8(1)
Plot ratio	
Landscaping	
Building height	No discretionary power available
Boundary walls	R-Codes Performance Criteria 7.1.4 P4; City Policy P350.02
Building setbacks	R-Codes Performance Criteria 7.1.4 P4
Visual privacy	R-Codes Performance Criteria 7.4.1 P1

It is recommended that Council recommends to the Western Australian Planning Commission that the proposal be approved, subject to conditions.

**Background**

The development site details are as follows:

<b>Zoning</b>	Highway Commercial
<b>Density coding</b>	R80
<b>Lot area</b>	807 sq. metres
<b>Building height limit</b>	7.0 metres
<b>Residential development potential</b>	807 sq. metres of plot ratio area for multiple dwellings (R-Codes Table 4) - Approximately 10 Medium sized dwellings.
<b>Plot ratio limit</b>	0.50 (TPS6 Table 3)

This report includes the following attachments:

- |  |   |
|--|---|
| <b>Confidential Attachment 10.3.4(a)</b> | Plans of the proposal.                    |
| <b>Attachment 10.3.4(b)</b>              | 3-dimensional images of the proposal.     |
| <b>Attachment 10.3.4(c)</b>              | Site photographs.                         |
| <b>Attachment 10.3.4(d)</b>              | Applicant's supporting report.            |
| <b>Confidential Attachment 10.3.4(e)</b> | Neighbours' submissions.                  |
| <b>Attachment 10.3.4(f)</b>              | Minutes of the Special Electors' Meeting. |

The location of the development site is shown below:



The owners of Lots 408 and 407 Downey Drive have conditional approval from the Western Australian Planning Commission to realign the boundary between these properties. The development site for this application is proposed Lot 411, as shown in **Confidential Attachment 10.3.4(a)**.

In accordance with Council Delegation DC342, the proposal is referred to a Council meeting because it falls within the following categories described in the delegation:

2. **Major developments**
  - (a) *Non-residential development which, in the opinion of the delegated officer, is likely to have a significant impact on the City;*
  - (c) *Development of the kind referred to in Items (a) and (b) above, but which, in the opinion of the delegated officer, is contentious or is of significant community interest.*
6. **Amenity impact**

*In considering any application, the delegated officers shall take into consideration the impact of the proposal on the general amenity of the area. If any significant doubt exists, the proposal shall be referred to a Council meeting for determination.*
7. **Neighbour comments**

*In considering any application, the assigned delegate shall fully consider any comments made by any affected landowner or occupier before determining the application.*

Lot 407 is currently owned by the Department of Housing. The proposed development is a public work that requires planning approval under the Metropolitan Region Scheme. Council does not have delegation from the Western Australian Planning Commission to determine planning applications involving the development of public housing. Council's recommendation will be sent to the Commission for their determination.

**Comment**

**(a) Background**

In April 2011, the City received an application for 6 Multiple Dwellings and an Office in a three storey building on Lot 407 (No. 4) Downey Drive, Manning (the site). The application has been referred to the Western Australian Planning Commission for determination. The Commission will determine the application following receipt of Council's recommendation.

This application was originally referred to the September 2011 Council meeting. However, due to the community concerns expressed during deputations at the Agenda Briefing held on 20 September 2011, the applicant and the owner (Department of Housing) requested that this application be withdrawn from the agenda to allow for further discussions with Council and the community. The applicant submitted revised plans shortly afterwards, which are presented in **Confidential Attachment 10.3.4(a)**.

In response to a petition received on 19 September 2011, a Special Electors' Meeting was held on 24 October 2011. Officers of the Department of Housing were present to address occupancy matters raised by members of the public. The minutes of this meeting are included as **Attachment 10.3.4(f)**. Following the Special Electors' Meeting, one submission was received by the City. The applicant also submitted additional drawings that are 3-dimensional images in **Attachment 10.3.4(b)**.

**(b) Existing development on the subject site**

The subject site is located at Lot 407 (No. 4) Downey Drive, Manning (the site). The existing development on the site currently features land use of "Single House", being a single storey residence, as depicted in the site photographs in **Attachment 10.3.4(c)**.

**(c) Description of the surrounding locality**

The site has a frontage to Downey Drive to the south, located adjacent to vacant land to the west (the single storey single house has been demolished), a two storey Mixed Development consisting of Shops and Offices to the north-west, a single storey service station to the north, one and two storey single houses to the east, and is opposite a single storey Senior Citizens' Centre, as seen in **Figure 1** below:



Council granted planning approval for a three storey Mixed Development consisting of Shops, Offices, Café / Restaurant and Multiple Dwellings on 2 Downey Drive in May 2011.

**(d) Description of the proposal**

The proposal involves the demolition of the existing development and the construction of a Mixed Development (6 Multiple Dwellings and Office) in a three storey building on the site, as depicted in the submitted plans at **Confidential Attachment 10.3.4(a)** and the 3-dimensional images in **Attachment 10.3.4(b)**. Furthermore, the site photographs show the relationship of the site with the surrounding built environment in **Attachment 10.3.4(c)**.

The applicant’s letter, **Attachment 10.3.4(d)**, describes the proposal in more detail.

The proposal complies with the Scheme, R-Codes and relevant Council policies, with the exception of the remaining non-complying aspects and other significant matters, all discussed below.

**(e) Compliant aspects**

The development demonstrates compliance with these planning aspects:

- **Boundary wall** - West (Table 3 of TPS6)
  - A nil setback is permitted on the side lot boundaries of the site.
- **Wall setback** - Ground, first and second floor, east
  - The proposed wall setbacks comply with Tables 2a/2b of the R-Codes for 6 Downey Drive and 6A Downey Drive, as required by Clause 5.1(4) of TPS6.
- **Finished ground and floor levels** - Minimum (Clause 6.9(2) of TPS6)
  - As the site is suitably elevated above ground and surface water levels, all ground and floor levels comply.
- **Finished ground and floor levels** - Maximum (Clauses 6.10(1) and 6.10(3) of TPS6)
  - The maximum finished floor level permitted is RL 5.57 metres above AHD, and the proposed finished floor level is 5.5 metres.
  - The maximum finished ground level permitted is RL 5.52 metres above AHD, and the proposed finished ground level is 5.5 metres.

- Fencing
  - All fencing in the front setback area is compliant with the visually permeable requirements of City Policy P350.07 “Fencing and Retaining Walls”. A 1.8 metre high brick wall is proposed on the eastern boundary of the site, as requested by Clause 5.4(4)(e)(vii) of TPS6.

**(f) Land use**

The proposed land uses of Mixed Development, Office and Multiple Dwellings are classified as a “D” (Discretionary) land use in Table 1 (Zoning - Land Use) of TPS6, subject to the requirements of Clause 5.4(4)(b). In considering this discretionary use, it is observed that the site adjoins residential and non-residential land uses, in a location with a residential and non-residential streetscape. Accordingly, the use is regarded as complying with Table 1 of the Scheme.

The development site forms part of “Site D”, in accordance with Clause 5.4(4) of TPS6, which states:

- (a) *In this subclause, “Site D” means all the land comprised in:*
  - (i) *Lot 409 (No. 56) Ley Street, Como (“Lot 409”);*
  - (ii) *Lot 408 (No. 2) Downey Drive corner Ley Street, Como (“Lot 408”); and*
  - (iii) *Lot 407 (No. 4) Downey Drive, Manning (“Lot 407”).*
- (b) *None of the land comprised in Lot 407 may be used for the purposes of:*
  - (i) *Non-residential development;*
  - (ii) *Mixed Development;*
  - (iii) *Grouped Dwellings; or*
  - (iv) *Multiple Dwellings;**unless such use is part of an integrated development encompassing all of the lots comprised in Site D.*

City officers consider that this development forms part on an integrated development, as the design of the proposed development on Lot 407 is similar to the design of the approved proposed building on Lot 408, as indicated on **Confidential Attachment 10.3.4(a)**, which was considered by Council to form part of an integrated development with Lot 409. Accordingly, the use is regarded as complying with Clause 5.4(4)(b) of TPS6.

**(g) Building height**

The building generally complies with the building height limit for the site, being 7.0 metres (12.62m AHD). The proposed building height is 6.88 metres (12.50m AHD), measured to the top of the main wall of the first floor of the building. The following external walls of the building are proposed to be constructed above the 7.0 metre horizontal plane and the notional 25 degree hip roof shape:

1. Apartment 4 and 7 western boundary wall - Second / mezzanine level (maximum 14.50m AHD); and
2. Apartment 4 Bedroom 1 southern and eastern walls (13.10m AHD) .

City officers recommended to the applicant that Item 1, the mezzanine level be redesigned to relocate the rooms to the centre of the building to fit within the 25 degree roof envelope; and for Item 2, the wall be reduced in height to the 7.0 metre horizontal plane.

In response to Item 1, the applicant provided plans that proposed windows and the installation of cladding on the western boundary wall above the 7.0 metre horizontal plane to match the material of the roof. The applicant has expressed the following opinion:

- *Windows are incorporated into corrugated steel clad dormer windows for these Bedroom 1 / bathrooms to the western boundary in accordance with the TPS6 requirements.*
- *This site is being developed in conjunction with the 2 adjoining lots as an integrated proposal as and such we are attempting to marry our roof forms in with the existing buildings at 56 Ley Street, which has a clear curved roof shape. In addition, the owners of 2 Downey Drive have advised their consent to the way this integration has been handled.*
- *The upper two-thirds of the second / mezzanine level gable roof does not exceed the 7.0 metre horizontal plane.*
- *We believe that our Downey Drive elevation complies with the City's 7.0 metre height requirements. It aligns exactly with the previously approved 2 Downey Drive. Council should view this wall as a minor projection.*

City officers consider that the western boundary wall (Item 1) is now compliant with the building height limit. The applicant has shown on the western elevation plan that the lower one-third of the metal cladding does not exceed the 7.0 metre horizontal plane. The upper two-thirds of the vertical height of a gable, where the gable forms a vertical extension of the external wall, is permitted to project above the building height limit, in accordance with Clause 6.2(1)(b)(v)(B) of TPS6. City officers are of the view that the curved metal cladding wall can be considered a gable, for the purposes of calculating the building height limit. In addition, City officers note that the proposed western boundary wall would not have a detrimental impact to the street or the adjoining property, as the design of the proposed development has been influenced by the design of the approved building at 2 Downey Drive.

In relation to Item 2, City officers calculated the Apartment 4 wall to exceed the building height limit by 0.48 metres (equivalent to approximately 6 courses of bricks). The portion that exceeds the permitted building height is not a structural wall, but an architectural feature that is an extension of the Bedroom 1 wall below. The extension above the roof line is for aesthetic reasons. Noting the dimensions and location of this 0.48 metre high feature wall, officers consider that it does not have any adverse amenity impact on the streetscape or on the adjoining properties. Even though such a feature has not been specifically identified as a minor projection in Clause 6.2 of TPS6, the words in the specific subclause being, "*minor projections ... including, but without in any way restricting the generality of this provision, such structures as vertical glass planes within the roof structure, dormer and saw-tooth windows, and chimneys.*", it seems to fit in with the definition. Based upon this explanation, officers recommend to Council that this architectural feature be approved.

**(h) Plot ratio**

In accordance with TPS6, the maximum permissible plot ratio is 0.50 (403.5 sq. metres). This requirement can be varied by the Council. The proposed plot ratio is 0.81 (651 sq. metres). Therefore, the proposed development does not comply with the plot ratio element of the Scheme. The plot ratio of the Office component is 0.15 (120 sq. metres) and the plot ratio of the Multiple Dwellings component is 0.66 (531 sq. metres). If the development was solely residential and assessed using Table 4 of the R-Codes, the maximum permissible plot ratio would be 1.00 (807 sq. metres).



Council discretion - Clause 7.8.1

Council has discretionary power under Clause 7.8.1 of TPS6 to approve the proposed plot ratio if Council is satisfied that all requirements of that clause have been met. In this instance, it is recommended that the proposed plot ratio be approved as the applicant has satisfied the City in relation to the following requirements of that clause:

- (a) *Approval of the proposed development would be consistent with the orderly and proper planning of the precinct and the preservation of the amenity of the locality;*
- (b) *The non-compliance will not have any adverse effect upon the occupiers or users of the development, or the inhabitants of the precinct, or upon the likely future development of the precinct; and*
- (c) *The proposed development meets the objectives for the City and for the precinct in which the land is situated, as specified in the precinct plan for that precinct.*

Council has approved plot ratio variations for recently approved non-residential developments in Precinct 12 “Manning”.

Site	Permissible in TPS6	Approved	Variation
56 Ley Street (2007)	0.50	0.49	No variation
2 Downey Drive (2011)	0.50	1.088	0.588 (118%)
16 Bradshaw Crescent (2011)	0.75	0.78	0.03 (4%)
4 Downey Drive (2011)	0.50	0.81 (proposed)	0.31 (62%)

Noting that the R-Codes permit a Multiple Dwelling development with a plot ratio of 1.00 on this site, the proposed plot ratio of 0.81 is seen to be acceptable.

In this instance, it is considered that the proposal complies with the discretionary clause and is therefore supported by the City.

**(i) Car parking**

In relation to the non-residential use (offices) component of the proposed mixed development, Table 6 of TPS6 requires 7 bays. The development proposes 7 bays, hence complies with the TPS6 provisions.

In relation to the residential use (multiple dwellings) component of the mixed development, Table 6 of TPS6 requires 14 bays, being 12 for the occupiers and 2 for the visitors. On the other hand, R-Codes 2010 require 10 bays for these multiple dwellings.

This difference of 4 bay requirement arises due to the fact that when the TPS6 came into operation in 2003, its car parking provisions for multiple dwellings were kept consistent with the provisions of the operative R-Codes 2002. However, these provisions have been subsequently modified in the R-Codes 2010, specifically in relation to multiple dwellings proposed on medium and high density codes lots. While Table 6 of TPS6 requires two bays for every multiple dwelling, Clause 7.3.3 of R-Codes 2010 requires between 0.75 and 1.5 car parking bays per dwelling, depending upon the dwelling size and its proximity to a train station or high frequency bus routes. To ensure consistency with the current car parking requirements of the R-Codes, multiple dwellings are assessed in accordance with the R-Codes 2010, and TPS6 provisions are used to calculate car parking requirements for non-residential developments.

Accordingly, in light of the requirement of 10 bays for the multiple dwellings, the development proposed 8 bays. Effectively, there is a shortfall of 2 car parking bays for the entire development.

Land Use	Bays Required	Bays Proposed	Variation
Office (TPS6)	7	7	0
Multiple Dwellings (R-Codes 2010)	7.5 occupier (rounded to 8) + 1.5 visitor (rounded to 2)		-2
<b>Total</b>	<b>17</b>	<b>15</b>	<b>-2</b>

Council discretion - Clause 6.3.4

Council has discretionary power under Clause 6.3.4 of TPS6 to approve the proposed car parking, if Council is satisfied that all requirements of that clause have been met. In this instance, it is recommended that the proposed car parking not be approved as the applicant has not satisfied the City in relation to the following requirements of that clause:

- (a) *Council is satisfied that the proposed number of bays is sufficient, having regard to the peak parking demand for different uses on the development site.*

Council discretion - Clause 7.8.1

Council has discretionary power under Clause 7.8.1 of TPS6 to approve the proposed car parking, if Council is satisfied that all requirements of that clause have been met. In this instance, it is recommended that the proposed car parking not be approved as the applicant has not satisfied the City in relation to the following requirements of that clause:

- (a) *Approval of the proposed development would be consistent with the orderly and proper planning of the precinct and the preservation of the amenity of the locality;*
- (b) *The non-compliance will not have any adverse effect upon the occupiers or users of the development, or the inhabitants of the precinct, or upon the likely future development of the precinct; and*
- (c) *The proposed development meets the objectives for the City and for the precinct in which the land is situated, as specified in the precinct plan for that precinct.*

As a response to the above subclause, the applicant submits the opinion that the development will generate a need for 15 bays to be provided (7.5 bays for Multiple Dwelling occupiers, 1.5 bays for Multiple Dwelling visitors and 7 bays for the Office), with 15 bays being provided on-site, and one additional disabled parking bay to be provided on Downey Drive to be shared with the approved development at 2 Downey Drive.

Council has approved car parking bay variations for recently approved non-residential developments in Precinct 12 “Manning”, as indicated in the table below. Council have required some developers to pay for the construction cost of street parking bays where a variation to on-site car parking has been granted.

Site	Permissible in TPS6	Approved / Proposed		Variation (on-site bays)
		Site	Street	
56 Ley Street (2007)	25	20	0	5 (20%)
2 Downey Drive (2011)	34 (16+18 : Table 6) 31 (16+15 : R-Codes)	20	3	14 (41%) 11 (35%)
16 Bradshaw Crescent (2011)	63	38	9	25 (40%)
4 Downey Drive (2011)	17	15	0	2 (12%)

Clause 6.3(5)(b) cash-in-lieu of car parking bays can be utilised in this instance, if additional car parking bays are provided within the street reserve, or other land near the development site.

Council discretion - Clause 7.3.3 P3

The applicant has satisfied Performance Criteria 7.3.3 P3 of the R-Codes, as outlined below:

*Adequate car and bicycle parking provided on-site in accordance with projected need related to:*

- *The type, number and size of dwellings;*
- *The availability of on-street and other off-site parking; and*
- *The location of the proposed development in relation to public transport and other facilities.*

*In mixed use development, in addition to the above:*

- *Parking areas associated with the retail / commercial uses are clearly separated and delineated from residential parking.*

Comments from the neighbours objecting to discretion being exercised to vary the car parking requirements have been received (see “Neighbour consultation”).

The proposed development would be able to utilise reciprocal parking between the residential and Office components. City officers are of the view that where a residential development is built independently or within a Mixed Development, there is no marked difference that should require additional visitor bays. Furthermore, a residential development within a Mixed Development has the benefit of additional bays belonging to the non-residential Office use which will be vacant in the evenings, as well as on the weekends. In this instance, City officers support the 2 visitor parking bays (bays 1 and 2) being shared between the residential and Office uses. The reciprocal use of these 2 bays is considered sufficient to cater for the 2 car bay variation.

In this instance, City officers consider that the proposed car parking on-site is adequate and subject to the recommended conditions; Council should support the proposal.

**(j) Car parking bay dimensions and vehicle movements**

Car parking bays 1 to 6 inclusive and 12 to 15 inclusive, comply with the minimum dimensions required by Schedule 5 of TPS6. Bays 7 to 11 inclusive, do not comply with the minimum depth of 5.5 metres as the proposed parking bay depth is 4.8 metres. The Manager, Engineering Infrastructure has provided comments on the proposed car parking layout, discussed further in the “Comments” section. In summary, the proposed dimensions of bays 7 to 11 inclusive should be acceptable with Australian Standard AS2890.

Considering comments received from the Manager, Engineering Infrastructure and officer's preference to retain the landscaping, City officers are prepared to support the proposed dimensions for bays 7 to 11 inclusive, with an overhang of 600mm at the front end, subject to there being no structure or obstruction within the landscaped area that would prevent the overhang.

City officers support the provision of a 4.2 metre driveway to provide 2-way access to the car park, as required by Clause 7.3.5.A5.3 of the R-Codes, as the adjoining 1.5 metre wide path is to be constructed at the same level and can be used to allow vehicles to pass if required.

**(k) Street setback - Ground and first floor, south**

The prescribed minimum street setback is not defined for this site as Table 5 of TPS6 does not apply to this site. The proposed setbacks (from west to east) are 1.5 and 1.3 metres for the ground floor, 2.8, 1.3, 3.2 and 6.1 metres for first floor external walls, and 0.1 and 0.8 metres for the first floor balconies. Therefore, the proposed development complies with Table 3 of TPS6.

The street setback of the building is considered to meet the requirements of Clause 5.1(4) and 7.5(n) of TPS6. The street setback on the western side of the site is the same as the approved development at 2 Downey Drive. The external walls of the building are set back further from the street, being 3.2 and 6.1 metres on the eastern side of the site (Apartment 4) to reflect the greater street setbacks required by the adjoining properties zoned Residential R20.

**(l) Wall Setback - ground and first floor, north, Apartment 5-7**

The proposed wall setbacks generally comply, however the western part of the northern walls and balconies are set back a minimum of 4.0 metres and 1.3 metres respectively from the boundary in lieu of 4.5 metres. Therefore, the proposed development does not comply with Table 3 of TPS6.

Noting that the northern adjoining property has no residential land uses on-site and is located adjacent to a car park, in this instance, City officers support discretion being granted in accordance with Clause 7.8 of TPS6. Therefore, it is considered that the proposal complies.

**(m) Boundary wall - Ground floor, east, stores and first floor support columns**

Under City Policy P350.02, the boundary walls have been found to not have an adverse effect on neighbouring amenity when assessed against the following “amenity test” referred to in this element of the Council policy. City officers note the following:

- Minor effect on the existing streetscape character, being 4 support columns that are 3.1 metres in height and 0.3 metres in width and the large setback from the street of the store boundary wall;
- Minor outlook from the front of the adjoining dwelling and garden (6 Downey Drive) forward of the proposed support columns’ parapet wall as the neighbouring residence is separated by a 4.0 metre wide driveway access leg;
- Minor outlook from the front of the adjoining dwelling (6A Downey Drive) forward of the proposed support columns’ parapet wall due to the large setback of the front habitable rooms of the neighbouring residence and the 2.5 metre wall height;
- No overshadowing of adjoining habitable room windows or outdoor living areas;
- No impact of bulk on adjoining outdoor living areas; and
- Comments from the neighbours have been received (see section “Neighbour consultation”).

In this instance, it is considered that the proposal complies with the Council policy, and is therefore supported by the City.

(n) **Visual privacy setback - first and second floor**

The required minimum visual privacy setback for bedrooms and studies is 4.5 metres, 6.0 metres for other habitable rooms, and 7.5 metres for balconies. All active habitable spaces meet the minimum visual privacy setbacks, or have effective privacy screening installed, except for the Apartment 2 Bedroom 1 window facing west, the Apartment 5 kitchen window facing north-east, the Apartment 7 balcony facing west, the Apartment 7 Bedroom 1 window facing west, and the Apartment 7 Bedroom 2 window facing south-west. Therefore, the proposed development does not comply with the visual privacy element of the R-Codes.

Council discretion - Clause 7.4.1 P1

The applicant has not satisfied the visual privacy Performance Criteria 7.4.1 P1 of the R-Codes or City Policy P350.08 "Visual Privacy". Assessment of the proposal against those criteria reveals the following:

- The Apartment 2 and 7 Bedroom windows do not overlook any sensitive areas of the proposed development at 2 Downey Drive;
- The Apartment 5 kitchen window overlooks sensitive areas of the single house at 6A Downey Drive, being the rear garden and outdoor living area; and
- The Apartment 7 balcony overlooks sensitive areas of the proposed development at 2 Downey Drive, being the balconies of the Multiple Dwellings on the northern side of the building.

In this instance, it is considered that the proposal does not comply with the performance criteria and is therefore not supported by the City. However, a condition is recommended to install effective screening to the Apartment 5 kitchen window and the western side of the Apartment 7 balcony, demonstrate compliance and thereby rectify this matter. The applicant has since advised in writing to City officers that the required screening will be installed.

(o) **Landscaping**

The required minimum landscaping area is 121 sq. metres (15 percent), and the proposed landscaping area is 90.3 sq. metres (11.2 percent). Therefore, the proposed development does not comply with the landscaping requirements of Table 3 of TPS6.

Council discretion - Clause 7.8.1

Council has discretionary power under Clause 7.8.1 of TPS6 to approve the proposed landscaping if Council is satisfied that all requirements of that clause have been met. In this instance, it is recommended that the proposed landscaping be approved as the applicant has satisfied the City in relation to the following requirements of that clause:

- (a) *Approval of the proposed development would be consistent with the orderly and proper planning of the precinct and the preservation of the amenity of the locality;*
- (b) *The non-compliance will not have any adverse effect upon the occupiers or users of the development, or the inhabitants of the precinct, or upon the likely future development of the precinct; and*
- (c) *The proposed development meets the objectives for the City and for the precinct in which the land is situated, as specified in the precinct plan for that precinct.*

Council discretion - Clause 5.1(5)

In addition, Clause 5.1(5) of TPS6 permits a variation of landscaping, “if the developer provides outstanding landscaping in accordance with the provisions of Clause 6.14(1)...”:

- (a) *Such landscaping shall be designed, developed and completed to a standard considered by Council to be outstanding;*
- (b) *Such landscaping shall comprise planting and at least one of the following decorative features:*
  - (i) *rockeries;*
  - (ii) *water features;*
  - (iii) *sculpture or other urban artwork; or*
  - (iv) *other decorative features considered by Council to enhance the visual quality of the streetscape;*
- (c) *Such landscaping shall not:*
  - (i) *be paved other than for vehicular or pedestrian access; or*
  - (ii) *form part of a private courtyard;*
- (d) *Such landscaping shall occupy the portion of the site between the primary street boundary and the principal building on that site; and*
- (e) *No fencing of any kind shall be erected between such landscaping and the primary street boundary. However, Council may permit appropriate fencing forward of the proposed building along the side boundaries of the site.*

Council has approved landscaping variations for recently approved non-residential developments in Precinct 12 “Manning”, as indicated in the table below:

Site	Permissible in TPS6	Approved	Variation
56 Ley Street (2007)	15%	Compliant	No variation
2 Downey Drive (2011)	15%	Compliant	No variation
16 Bradshaw Crescent (2011) (includes outstanding landscaping)	15%	9.5%	5.5%
4 Downey Drive (2011)	15%	11.2% (proposed)	3.8%

City officers are of the opinion that the provision of landscaping on the site is adequate, as landscaping is provided in front of the building and surrounding the uncovered portion of the car park. Standard conditions requiring a landscaping plan to be approved by the City and for the provision of outstanding landscaping are recommended.

In this instance, it is considered that the proposal complies with the discretionary clause and is therefore supported by the City, subject to the provision of outstanding landscaping.

**(p) Scheme Objectives - Clause 1.6 of Town Planning Scheme No. 6**

In considering the application, Council is required to have due regard to and may impose conditions with respect to matters listed in Clause 1.6 of TPS6 which are, in the opinion of Council, relevant to the proposed development. Of the 12 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (a) *Maintain the City's predominantly residential character and amenity;*
- (c) *Facilitate a diversity of dwelling styles and densities in appropriate locations on the basis of achieving performance-based objectives which retain the desired streetscape character and, in the older areas of the district, the existing built form character;*

- (d) *Establish a community identity and “sense of community”, both at a City and precinct level and to encourage more community consultation in the decision-making process;*
- (e) *Ensure community aspirations and concerns are addressed through Scheme controls;*
- (f) *Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*
- (g) *Protect residential areas from the encroachment of inappropriate uses;*
- (i) *Create a hierarchy of commercial centres according to their respective designated functions, so as to meet the various shopping and other commercial needs of the community;*
- (j) *In all commercial centres, promote an appropriate range of land uses consistent with:*
  - (i) *the designated function of each centre as set out in the Local Commercial Strategy; and*
  - (ii) *the preservation of the amenity of the locality;*

The proposed development is considered satisfactory in relation to all of these matters, subject to the recommended conditions.

**(q) Other Matters to be Considered by Council - Clause 7.5 of Town Planning Scheme No. 6**

In considering the application, Council is required to have due regard to and may impose conditions with respect to matters listed in Clause 7.5 of TPS6 which are, in the opinion of Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (a) *The objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*
- (c) *The provisions of the Residential Design Codes and any other approved Statement of Planning Council Policy of the Commission prepared under Section 5AA of the Act;*
- (f) *Any planning Council policy, strategy or plan adopted by Council under the provisions of Clause 9.6 of this Scheme;*
- (i) *The preservation of the amenity of the locality;*
- (j) *All aspects of design of any proposed development including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (m) *The need for new or replacement boundary fencing, having regard to its appearance and the maintenance of visual privacy upon the occupiers of the development site and adjoining lots;*
- (n) *The extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details;*
- (s) *Whether the proposed access and egress to and from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvre and parking of vehicles on the site;*
- (t) *The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *Whether adequate provision has been made for access by disabled persons;*

- (v) *Whether adequate provision has been made for the landscaping of the land to which the application relates, and whether any trees or other vegetation on the land should be preserved;*
- (w) *Any relevant submissions received on the application, including those received from any authority or committee consulted under Clause 7.4; and*
- (x) *Any other planning considerations which Council considers relevant.*

The proposed development is considered satisfactory in relation to all of these matters, subject to the recommended conditions.

### Consultation

#### (a) Design Advisory Consultants' comments

The design of the proposal was considered by the City's Design Advisory Consultants (DAC) at their meeting held in June 2011. The proposal was favourably received by the Consultants. Their comments and responses from the applicant and the City are summarised below:

DAC Comments	Applicant's Response	Officer Comment
The Advisory Architects observed that the proposed development demonstrated built form compatibility with the recently approved Mixed Development at No. 2 Downey Drive, and the existing development at No. 56 Ley Street.	No comment.	City officers consider that the proposal is an integrated development, as required by Clause 5.4(4)(b) of TPS6. The comment is <b>UPHELD</b> .
The Architects recommended that the orientation of the parking bays proposed towards the rear of the development site be amended by aligning bay numbers 7 to 11 along the eastern boundary. As a result of this reconfiguration, the parking bays will achieve compliance with the bay dimensions prescribed under TPS6, and improve the manoeuvrability of vehicles while exiting these bays.	The rear parking bay layouts have been adjusted and brought into compliance with City requirements. An additional bay has also been included.	City officers supported these comments on the car park design and advised the applicant accordingly. The revised plans generally comply with TPS6 requirements and considering comments on these revised plans received from the Manager, Engineering Infrastructure advising that the car park meets the requirements of the Australian Standards, the car park design is considered to be compliant. The comment is <b>NOTED</b> .
The Architects also referred to the requirement for a disabled car parking bay that will apply to this development, in accordance with the disability standards contained within the Building Codes of Australia.	The requirements under AS1428 indicate that one disabled bay is required for up to 50 commercial bays. We believe that the on-street bay we have provided in the vicinity of the common boundary with 2 Downey Drive is sufficient for both sites.	The City has no planning requirements for the provision of disabled car parking. This matter will be assessed at the building licence stage. Building Services have advised that a disabled parking bay will be required to be provided on-site for both 2 and 4 Downey Drive. The comment is <b>UPHELD</b> .



DAC Comments	Applicant's Response	Officer Comment
Some minor inconsistency between the proposed plan and elevation drawings were identified which will need to be attended to in the amended drawings.	These matters have been attended to.	City officers have observed that inconsistencies have been resolved with amended plans submitted to the City. The comment is <b>NOTED</b> .
In order to see the true extent of elevations that will be visible from the street, the Architects recommended that elevations of the recently approved development at No. 2 Downey Drive be superimposed on the elevation drawings of the proposed development.	Composite elevations have already been lodged.	The City has been provided plans showing the northern and Downey Drive elevations of 2 and 4 Downey Drive. Superimposed elevations of No. 2 on the No. 4 side elevation plans are not required by the City. The comment is <b>NOT UPHELD</b> .

Accordingly, planning conditions and important notes are recommended to deal with issues raised by the Design Advisory Consultants.

**(b) Neighbour consultation**

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 "Consultation for Planning Proposals". Under the "Area 2" consultation method, individual property owners, occupiers and / or strata bodies at Nos. 2, 3, 6, 6A, 8A, 8B, 10, 10A, 12, 15, 16, 17, 18, 19 and 20 Downey Drive, No. 1 Jarman Avenue, Nos. 1/56, 2/56, 3/56, 4/56 and 61 Ley Street and Nos. 1/71, 2/71, 3/71, 4/71, 5/71 and 73 Manning Road were invited to inspect the plans and to submit comments during a minimum 21-day period. In addition, one sign was placed on-site inviting comment from any other interested person.

Following the Special Electors' Meeting, one submission was received by the City. The submitter has been notified of this Council meeting and planning related comments have been included in the table below.

During the advertising period, a total of 44 consultation notices were sent and 8 submissions were received; one in favour and 7 against the proposal. Two additional submissions from new submitters were received at or after the time the application was originally referred to Council. The comments of the submitters, together with officer responses are summarised below:

During the advertising period, a total of 44 consultation notices were sent and 8 submissions were received; one in favour and 7 against the proposal. Two additional submissions from new submitters were received at or after the time the application was originally referred to Council. The comments of the submitters, together with officer responses are summarised below:

Submitters' Comments	#	Officer Response
No commercial premises on Downey Drive.	7	The site has a Highway Commercial zoning. Though the Office land use is discretionary on this site, City officers do not consider that it will have a significant detrimental impact to the adjoining residences as the building is unlikely to operate outside of standard business hours. The comment is <b>NOT UPHELD</b> .
Three storey building is not in keeping with the neighbourhood.	7	The building height is not a discretionary matter. Three storey buildings can be built within the 7.0 metre building height limit. The comment is <b>NOT UPHELD</b> .
Occupancy - Department of Housing.	6	The Department of Housing's ownership of the property has no impact on the City officers' assessment of the application or recommendation. The apartments are defined as Multiple Dwellings, regardless of public or private ownership. The comment is <b>NOT UPHELD</b> .
Traffic - Adverse impacts (Volume, noise, pedestrian impact).	5	The R80 density coding permits higher density development and the site is located within a commercial area. The traffic impact from the Office is likely to be limited to standard business hours. The comment is <b>NOTED</b> .
Development is not integrated with No. 2 Downey Drive - TPS6 5.4(4).	4	City officers consider that this development is integrated with 2 Downey Drive and 56 Ley Street. Specifically, the design of the building is similar to the proposed adjoining development at 2 Downey Drive which has previously been approved by Council. The comment is <b>NOT UPHELD</b> .
Oppose building setback less than 6.0 metres from the street, as per adjoining R20.	4	The setback of the building steps back towards the east of the site to provide a transition between the approved setback at 2 Downey Drive and the existing setback of buildings from No. 6 onwards. City officers consider that the building is compliant with Clause 5.1(4) of TPS6. The comment is <b>NOTED</b> .
Oppose building setback less than Table 2a/2b from the eastern boundary.	4	The main building is compliant with the minimum acceptable development setback from the eastern boundary, as listed in Table 2a and 2b of the R-Codes. City officers consider that the boundary wall adjacent to the adjoining battleaxe driveway leg will not have a significant detrimental impact to the eastern adjoining properties. The comment is <b>NOTED</b> .
Precedent of No. 2 approval influencing No. 4 assessment.	4	This development has been designed to be integrated with the approved building at 2 Downey Drive. The impact of this development on the approved building has been considered during the planning assessment. This application has been assessed independently of 2 Downey Drive, and City officers are not recommending that discretion be exercised on the basis that it was exercised by Council previously. The comment is <b>NOTED</b> .
Excessive plot ratio - Incompatible with adjacent residential.	4	This building is compliant with the plot ratio if assessed using the R-Codes. A two storey single house on the site with at least 50% open

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		space could have a similar or greater plot ratio calculation as the proposed building. The building is considered to be sufficiently compatible with the neighbouring single houses in this regard. The comment is <b>NOT UPHELD</b> .
Car parking bays do not meet minimum dimensions.	4	City officers have noted that some of car parking bays do not meet the minimum dimensions required by Schedule 5 of TPS6. However, all bays are compliant with the Australian Standard. The comment is <b>NOTED</b> .
Oppose design of the building.	4	The design of the building is similar to the proposed adjoining development at 2 Downey Drive which has previously been approved by Council. The comment is <b>NOT UPHELD</b> .
Incorrect address (Site is located in Manning, not Como).	4	The suburb boundary between Como and Manning is located between 2 and 4 Downey Drive. Though the incorrect suburb is listed on the plans for Lot 407, this matter does not affect the assessment or determination of this application. The correct address will be listed on the Notice of Determination. The comment is <b>NOTED</b> .
Overlooking of neighbouring residential properties.	4	Generally, the building meets the minimum acceptable development setbacks for visual privacy from active habitable spaces or has screening installed to prevent overlooking. City officers are recommending screening to also be installed where the building is not compliant with the performance criteria provisions. The comment is <b>NOTED</b> .
High density development - Adverse impacts.	2	The site has been zoned in the Scheme to allow this type of development. The extent of discretion recommended to be exercised by Council is not considered by City officers to have a significant detrimental impact to the adjoining properties. The comment is <b>NOT UPHELD</b> .
Loss of privacy.	1	The provision of addition privacy screening is recommended to comply with the R-Codes. City officers do not consider that this development will have a significant detrimental impact to the general privacy of the occupiers of the adjoining residential properties. The comment is <b>NOTED</b> .
Overshadowing of neighbouring residence.	1	The adjoining residences are located to the north-east and east of the proposed building. The proposed building will mainly cast shadow to the south of the site and will have a minimal impact upon the solar access available to adjoining residential properties. The comment is <b>NOT UPHELD</b> .
Non-residential uses, e.g. café, operating late at night - People gathering.	1	The Office is unlikely to operate and impact adjoining residences outside of standard business hours. The comment is <b>NOT UPHELD</b> .
Cumulative impacts of Nos. 2 and 4 Downey Drive.	1	This application has been assessed independently of 2 Downey Drive, though the cumulative impacts have been considered by City officers where discretion is being requested. The comment is <b>NOTED</b> .

Support development; western boundary wall OK .	1	The comment is <b>UPHELD</b> .
Details of the development have not been fully explained to the community - The development's impact cannot be determined.	1	A Special Electors' Meeting has since been held to provide the community with further information about the proposed development and occupancy of the building. The comment is <b>NOTED</b> .
Existing high density residential development in Ley Street - More high density development is not required in Manning.	1	This site has a R80 density coding in TPS6 and the proposal reflects the density of development permitted on this site. The comment is <b>NOT UPHELD</b> .
No notification of the proposed developments received from the Council.	1	This application required Area 2 consultation as the site has a R80 density coding and is adjacent to properties zoned Residential R20. Council Policy P301 requires the City to post a consultation letter to property owners and occupiers within 150 metres of the site on the same street. A sign was also placed on-site in May 2011, inviting comments from people who did not receive a letter. The comment is <b>NOT UPHELD</b> .
Council has a conflict of interest - Additional rates collected from high density developments.	1	The City officer assessment and recommendation is based on the statutory requirements of TPS6, the R-Codes and Council's local planning policies. The potential rates raised from a proposed development does not form part of a planning assessment. The comment is <b>NOT UPHELD</b> .

# - Refers to the number of submissions received

A copy of the neighbours' submissions has been provided in **Confidential Attachment 10.3.4(e)**. The minutes of the Special Electors' Meeting held on 24 October 2011 have been provided in **Attachment 10.3.4(f)**. At this meeting, members of the community raised issues regarding affordable housing in general and the proposed development, including the ownership and occupancy of the apartments, traffic, landscaping, street and boundary setbacks and plot ratio.

(c) **Manager, Engineering Infrastructure**

The Manager, Engineering Infrastructure was invited to comment on a range of issues relating to car parking and traffic arising from the proposal. His comments on the originally submitted plans are as follows:

- *Layout and design of on-site parking OK.*
- *Conditions required for detention and disposal of stormwater; no change to verge or footpath level; all works with the street to be completed by Engineering except for the crossover; new crossover to City requirements (SP30).*
- *Support widening the street pavement by 1.5m rather than providing the disabled car bay and can move the line markings and increase payment on the opposite side if required to retain street trees. Would provide 3 car bays including one disabled (ramps required for kerbing) and easier to use the street sweeper and other maintenance.*

The following comments are made in response to amendments to the car parking layout, as presented to Council in September, and street parking opportunities to cater for a shortfall of on-site car parking. The comments relevant to the plans currently presented to Council are listed below:

- *The previous comment relating to disabled parking on road may have been voided by a recent change to the Codes as advised by the project architect. Engineering Infrastructure has not confirmed the Code change. The advice received indicates that the on-street bay needs to increase significantly in width unless it was constructed abutting a paved path or similar. The obvious treatment is an embayed parking bay. The previously suggested treatment of widening the road pavement between the proposed crossings to Nos. 2 and 4 Downey Drive is no longer an option.*
- *Engineering will support the construction of an embayed disability parking area subject to satisfactory arrangements being made with City Environment regarding any street tree impacted by the work. The architect is to liaise with Engineering Infrastructure regarding the materials of construction and the final design of the embayed area, and will require a Traffic Management Plan be prepared for the works occurring in the street.*
- *On-site parking bays 7 to 11 are all less than 5.5 metres in length. The standard bay module in TPS6 is 5.5 metres by 2.5 metres. Australian Standard AS2890 Part 2 “Off-Street Parking” allows for a parking bay to have an overhang of up to 600mm subject to there being no structure or obstruction that would prevent the overhang. From the plan submitted, the area in front of bays 7 to 11 is either proposed as paving or landscaping. Bays 7 to 11 at nominally 4.8 metres in length with 600mm overhang should be acceptable considering the overall length of the B85 vehicle is 4910mm, and 5200mm for the B99 vehicle.*
- *There is no opportunity to provide an “additional” parking bay in Downey Drive without widening the south side of the existing road pavement. The widening cannot take the form of an embayed area and would be required to extend from the crossing to the public parking station to a point adjacent to the traffic island.*
- *The extent of public parking opportunities within the street for public use is limited by the number of crossings, the extent of kerbside space between crossings and the statutory / regulatory restrictions. Overall, for kerbside space to be used as offset for a development, there must be a net gain in the available parking in the street.*
- *Currently there are no signed parking restrictions in this section of the street, although parking adjacent to the traffic island at Ley Street and the “lead in” line marking (in Downey Drive) is not permitted under the Road Traffic Code. (No parking adjacent to an “obstruction” unless there is a minimum of 3.0 metres between the obstruction and the parked vehicle). The current position is that one vehicle could park legally on the south side of Downey Drive (between the public car park and the traffic island). By increasing the pavement width by nominally 1.4 metres, the number of formal bays can be increased to four, i.e. a net increase of 3 bays. Anything less than the above widening could not be supported by Engineering Infrastructure. Subject to formal design, an estimate to affect the construction works, including flush kerbing to formalise the on-street parking would be \$40,000 for 4 bays, i.e. \$10,000 per bay. Additionally, based upon the land cost figures used in a recently approved planning application referred to the August 2011 Council meeting, the cost of land per bay has been calculated as \$21,000.*
- *With right-angled parking, the minimum area per bay would be 21.25 sq. metres. The land and construction cost per bay would be \$24,750.*

In view of the above-stated right angled car parking proposal and associated costs of land and construction of \$24,750 per bay, the total cost payable by the owner / applicant will be \$49,500. City officers have not recommended the applicant pay for construction of parking bays in Downey Drive as it is considered that sufficient car parking is provided on-site.

Accordingly, planning conditions and important notes are recommended to deal with issues raised by the Manager, Engineering Infrastructure.

**(d) Other City Departments**

Comments were invited from Environmental Health, City Environment and Building Services sections of the City's administration.

The Environmental Health section provided comments with respect to bins, noise, kitchens, laundries and toilets. This section raises no objections and has advised that the bin storage area and location are adequate, while recommending standard conditions and important notes for noise, sanitary and laundry facilities.

The City Landscapes Officer, City Environment section provided comments with respect to the removal of street trees for the construction of the proposed crossover and street parking. This section raises no objections and has provided the following comments:

- *The street trees are in good condition and the tops have been pruned for power lines.*
- *Remove the 2 trees and replace in a reserve at owner's cost, as per City Policy P350.05 Clauses 8(b), 8(g) and 9.*

The cost of street tree removal and replanting for 2 trees is \$1,435.50. Standard conditions are recommended to address this matter.

The Team Leader, Building Services had no comments to make on the proposal at this stage. However, if approved, the proposal will be the subject of a building licence application which will be thoroughly examined at a later stage. It was indicated that the windows on the western boundary wall would not be compliant with the Building Code of Australia.

Accordingly, planning conditions and / or important notes are recommended to respond to the comments from the above officers.

**(e) External agencies**

The application has been referred to the Department of Planning for determination. The department has not provided the City with any comments on this proposal. The Western Australian Planning Commission will determine this application following receipt of the Council's recommendation.

**Policy and Legislative Implications**

Comments have been provided elsewhere in this report in relation to the various provisions of the Scheme, R-Codes and Council policies where relevant.

**Financial Implications**

This determination has no financial implications.

### Strategic Implications

This matter relates to Strategic Direction 3 “Housing and Land Uses” identified within Council’s Strategic Plan which is expressed in the following terms: *Accommodate the needs of a diverse and growing population with a planned mix of housing types and non-residential land uses.*

### Sustainability Implications

Noting the proximity of the subject Highway Commercial lot to Manning Road, as well as to the surrounding high density non-residential developments, the applicant has successfully designed a building that compliments the streetscape. Even though all balconies do not have access to the northern sunlight, they are of a reasonably large size thus providing the required balance between indoor and outdoor activities for each of the dwellings. The Mixed Development is observed to be sustainable as it provides active surveillance of the street during various times of the day and night, promoting a sense of safety and security amongst the community.

### Conclusion

It is considered that the proposal does not meet all of the relevant Scheme, R-Codes and / or Council policy objectives and provisions. However, provided that all conditions are applied as recommended, it is considered that the application should be conditionally approved.

<b>OFFICER RECOMMENDATION ITEM 10.3.4</b>
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That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, that Council endorses the City’s recommendation which will be forwarded to the Western Australian Planning Commission for determination.

Council recommends to the Western Australian Planning Commission that this application for planning approval for a Mixed Development (6 Multiple Dwellings and Office) in a three storey building on Lot 407 (No. 4) Downey Drive, Manning, **be approved** subject to:

(b) **Standard Conditions**

427	Colours and materials - Details	386	End of trip facilities - 4 lockers
578	New titles prior to BL	025	Verge storage licence
415	Street tree - Fee yet to be paid (\$1,435.50)	470	Retaining walls - If required
340A	Parapet walls - Finish from street	471	Retaining walls - Timing
340B	Parapet walls - Finish from neighbour	455	Dividing fences - Standards
508	Landscaping approved and completed	456	Dividing fences - Timing
513	Outstanding landscaping details	625	Sightlines for drivers
510	Landscaping plan - Private tree	416	Street tree - Not to be removed
210	Screening - Permanent	377	Screening - Clothes drying
030	Final clearance requirements	515	Lighting - Communal areas
390	Crossover - Standards	550	Plumbing hidden
393	Verge and kerbing works	445	Stormwater infrastructure
352	Car bays - Marked and visible	560	Rubbish storage area screened
353	Visitor bays - Marked and visible	650	Inspection (final) required
354	Car bays - Maintained	660	Expiry of approval

**(b) Specific Conditions**

- (i) Revised drawings shall be submitted, and such drawings shall incorporate the following:
  - (A) Measures designed to prevent overlooking of the adjoining property from the Apartment 5 first floor kitchen window and the western side of the Apartment 7 first floor balcony by either:
    - (1) increasing the sill height to 1600mm above the floor level; OR
    - (2) the use of glass blocks or fixed obscure glass; OR
    - (3) reducing the size of the window(s) to less than 1.0 sq. metre in aggregate; OR
    - (4) the provision of effective screening as defined in Council Policy P350.08 “Visual Privacy”; OR
    - (5) the deletion of the relevant openings.
 in accordance with the visual privacy requirements of the Residential Design Codes of WA.
- (ii) No structure or obstruction is permitted within a 600mm overhang for car parking Bays 7 to 11 inclusive, which would prevent the overhang, to comply with Australian Standard AS2890 Part 2 “Off-Street Parking”.
- (iii) The car parking bays shall be allocated to occupancies in the following manner on the approved strata plan:
  - (A) Residential dwellings - One bay per dwelling and 2 additional bays (8 bays total);
  - (B) Non-residential tenancies - 5 bays; and
  - (C) Common visitor parking - 2 bays.

**(c) Standard Advice Notes**

700A	Building licence required	762	Landscaping - Plan required
705	Revised drawings required	766	Landscaping - General standards
706	Applicant to resolve issues	709	Masonry fences require BA
708	Boundary wall surface finish process	790	Minor variations - Seek approval
715	Subdivision procedure	795B	Appeal rights - Council decision
725	Fences note - Comply with that Act		

**(d) Specific Advice Notes**

The applicant is advised to liaise with the City’s Environmental Health department for their specific requirements to be addressed.

**(e) Council’s Advice Notes to the Western Australian Planning Commission**

- (i) The power conferred by Clause 7.8(1) of the City of South Perth Town Planning Scheme No. 6 (Discretion to Permit Variations from Scheme Provisions) shall not be exercised by the Council with respect to:
  - (A) Building height limits referred to in Clause 6.2; and
  - (B) Development requirements for certain lots referred to in Clause 5.4 in accordance with Clause 7.8(2) of the City of South Perth Town Planning Scheme No. 6.
- (ii) Where the Commission includes any conditions of approval recommended by the Council in the Notice of Determination and the Council’s recommended condition is subject of an appeal to the State Administrative Tribunal, City officers are available to assist the Commission during the appeal process.

<b>Footnote</b>	A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.
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OFFICER RECOMMENDATION

The Mayor called for a mover of the officer recommendation at Item 10.3.4. The officer recommendation Lapsed.

MOTION

Moved Cr Cala, Sec Cr Howat

That pursuant to the provisions of the City of South Perth Town Planning Scheme No 6 and the Metropolitan Region Scheme, that Council **does not endorse** the City Officer's recommendation.

Council recommends to the Western Australian Planning Commission that this application for planning approval for a Mixed Development (6 Multiple Dwellings and Office) in a three storey building on Lot 407 (No 4) Downey Drive, Manning, **be refused**.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Cala Opening for the Motion

- proposal Referred to Council because in the opinion of the delegated officer:
  - (i) It is likely to have a **significant impact** on the City;
  - (ii) May have been contentious or is of **significant** community interest;
  - (iii) There was **significant doubt** in the assessing officer's mind about the impact this proposal might have on the general amenity of an area.
- While the development conforms to the requirements of TPS 6 and forms part of an integrated development with Lot 409 (No. 56) Ley Street and Lot 408 (No.2) Downey Drive, too much emphasis has been placed on this objective at the expense of the need to be also sympathetic in scale to the adjoining residences along Downey Drive, especially No. 6. The design does not provide a sufficient transition between the commercial precinct of Ley Street and the adjoining residential along Downey Drive
- bulk and scale of the development is emphasised further due to the proposed setbacks not providing for a scaling down to the east. The eastern most dwelling on Downey Drive needs to be setback close to that of the adjoining property; that is in the order of 6 Metres.
- Clause 5.1.4 of TPS 6 also provides the Council the means to require a greater setback than is shown in Table 3 for a common boundary, where it sees a need to protect the amenity of the adjoining land. Whilst the development meets the height limit requirements along its eastern boundary, a greater setback would help to lessen the overpowering effect it will have to the properties adjoining.
- rationale for granting No. 2 Downey Drive a plot ratio variation of 118% should not be reflected in No. 4., which requires a 62% variation. The permissible plot ratio for No. 4 Downey Drive is 0.5 , while the proposed is 0.81.
- even though the R-Codes allows a plot ratio of 1.00 should the development application have been for Multiple Dwellings only, this is only an academic figure as it is unlikely that with the requirements of parking, setbacks and height restrictions; the building in its present form could have gained any more advantage in regard to the number of dwellings, without providing basement parking. The permissible plot ratio of any development may not be achievable because of the other requirements of parking, setbacks, height and other associated planning issues. Because the plot ratio is significantly over (62%) as a mixed development this has lead to all the other significant issues under consideration.
- car parking is inadequate and even with proposed concessions suggested there is still the requirement to find another car bay off site; as a shared disabled bay with no. 2 on Downey Drive. Council is not satisfied that the proposed number of car bays provided will be sufficient to the peak parking demand for different uses on the development site and believes that approval would not be consistent with the orderly and proper planning of the precinct and the preservation of the amenity of the locality.

- the group of properties designated as “Site D” in TPS 6. were provided with a R80 zoning more than ten years ago as a way to assist in the revitalisation of the commercial precinct and to encourage urban renewal. Good quality homes are now being built as more families are seeing what the area has to offer. It is felt that no further bonus to what the present R80 zoning has to offer is justified.
- the assessment and recommendation of the Report are a judgement call, but it is believed they do not fully take into consideration the significant impact the development will have on the amenity of the residences adjoining and in its near vicinity, in regard to Scale and Bulk, and the amount of on-site parking provided
- ask Councillors make a judgement and support Alternative Motion

Cr Howat for the Motion

- together with other Councillors / local residents pleased to see there is finally a plan to remove the dilapidated Homeswest building and replace it with a decent structure
- agree with comments by Cr Cala - there are compelling planning reasons for rejecting the officer recommendation
- proposed development, if allowed to proceed without significant modification is likely to have a detrimental effect on the residences in proximity with respect to bulk / scale as well as parking
- property is rated R80 - hence adequate opportunity for the design of the building to incorporate generous saleable space in the form of apartments and commercial outlets - hence surprised the developer has requested significant concessions
- believe some revisions of the plan to comply with the relevant coding regulations will provide a more appropriate transition in scale/bulk from proposed building at No. 2 Downey Drive to the relatively new residential property at No. 6 Downey Drive - the consequence will likely be a structure that is more in keeping with the neighbourhood and in turn allay some of the major concerns local residents have about the development
- support the Motion

Mayor Doherty point of clarification -reference page 64 of the Agenda, in particular part (e) of the officer recommendation - if we support the refusal Motion what are the next steps that could happen?

Director Development and Community Services responded that the Council Recommendation will go to the Western Australian Planning Commission. The WAPC will then make a determination. Either way the applicant will have the Right-of-Appeal to SAT against the WAPC decision.

Cr Trent point of clarification - the proposed zoning of the site is R80, what is the zoning of No. 6 Downey Drive?

Director Development and Community Services replied R20.

Cr Trent for the Motion

- application is R80 / next door is R20 a residential property
- we need to blend into our TPS to provide a more appropriate transition so it is not such a jolt between a proposed R80 development and a next door residential home
- support the alternative motion

**COUNCIL DECISION ITEM 10.3.4**

The Mayor Put the Motion

That pursuant to the provisions of the City of South Perth Town Planning Scheme No 6 and the Metropolitan Region Scheme, that Council **does not endorse** the City Officer's recommendation.

Council recommends to the Western Australian Planning Commission that this application for planning approval for a Mixed Development (6 Multiple Dwellings and Office) in a three storey building on Lot 407 (No 4) Downey Drive, Manning, **be refused**.

CARRIED (8/2)

Reason for Change

Council were of the view the proposal will have significant impact on the general amenity of the residential area.

**Note:** Cr Hawkins-Zeeb returned to the Council Chamber at 8.23pm; and  
Manager Planning Services retired from the Meeting at 8.23pm

**10.3.5 Proposed 3-Storey Mixed Development Comprising Multiple Dwellings, Consulting Rooms, Shop and Office. Lots 390 (No. 3) and 391 (No. 5) Barker Avenue, Como.**

**COUNCIL DECISION ITEM 10.3.5**

At the written request of the applicant, Item 10.3.5 was withdrawn from consideration at the November 2011 Council Meeting.

**10.4 STRATEGIC DIRECTION 4: PLACES**  
Nil

**10.5 STRATEGIC DIRECTION 5: TRANSPORT**  
Nil

**10.6 STRATEGIC DIRECTION 6: GOVERNANCE**

**10.6.1 Monthly Financial Management Accounts - October 2011**

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	8 November 2011
Author:	Michael J Kent, Director Financial and Information Services
Reporting Officer:	Cliff Frewing, Chief Executive Officer

**Summary**

Monthly management account summaries comparing the City's actual performance against budget expectations are compiled according to the major functional classifications. These summaries are then presented to Council with comment provided on the significant financial variances disclosed in those reports.

The attachments to this financial performance report are part of a comprehensive suite of reports that have been acknowledged by the Department of Local Government and the City's auditors as reflecting best practice in financial reporting.

### **Background**

Local Government (Financial Management) Regulation 34 requires the City to present monthly financial reports to Council in a format reflecting relevant accounting principles. A management account format, reflecting the organisational structure, reporting lines and accountability mechanisms inherent within that structure is considered the most suitable format to monitor progress against the budget. The information provided to Council is a summary of the more than 100 pages of detailed line-by-line information supplied to the City's departmental managers to enable them to monitor the financial performance of the areas of the City's operations under their control. This report also reflects the structure of the budget information provided to Council and published in the Annual Budget.

Combining the Summary of Operating Revenues and Expenditures with the Summary of Capital Items gives a consolidated view of all operations under Council's control. It also measures actual financial performance against budget expectations.

Local Government (Financial Management) Regulation 35 requires significant variances between budgeted and actual results to be identified and comment provided on those variances. The City has previously adopted a definition of 'significant variances' of \$5,000 or 5% of the project or line item value (whichever is the greater). Notwithstanding the statutory requirement, the City provides comment on other lesser variances where it believes this assists in discharging accountability.

To be an effective management tool, the 'budget' against which actual performance is compared is phased throughout the year to reflect the cyclical pattern of cash collections and expenditures during the year rather than simply being a proportional (number of expired months) share of the annual budget. The annual budget has been phased throughout the year based on anticipated project commencement dates and expected cash usage patterns. This provides more meaningful comparison between actual and budgeted figures at various stages of the year. It also permits more effective management and control over the resources that Council has at its disposal.

The local government budget is a dynamic document and will necessarily be progressively amended throughout the year to take advantage of changed circumstances and new opportunities. This is consistent with principles of responsible financial cash management. Whilst the original adopted budget is relevant at July when rates are struck, it should, and indeed is required to, be regularly monitored and reviewed throughout the year. Thus the Adopted Budget evolves into the Amended Budget via the regular (quarterly) Budget Reviews.

A summary of budgeted revenues and expenditures (grouped by department and directorate) is also provided each month from September onwards. This schedule reflects a reconciliation of movements between the 2011/2012 Adopted Budget and the 2011/2012 Amended Budget including the introduction of the capital expenditure items carried forward from 2010/2011 (after September 2011).

A monthly Statement of Financial Position detailing the City's assets and liabilities and giving a comparison of the value of those assets and liabilities with the relevant values for the equivalent time in the previous year is also provided. Presenting this statement on a monthly, rather than annual, basis provides greater financial accountability to the community and provides the opportunity for more timely intervention and corrective action by management where required.

**Comment**

The major components of the monthly management account summaries presented are:

- Statement of Financial Position - **Attachments 10.6.1(1)(A) and 10.6.1(1)(B)**
- Summary of Non Infrastructure Operating Revenue and Expenditure **Attachment 10.6.1(2)**
- Summary of Operating Revenue & Expenditure - Infrastructure Service **Attachment 10.6.1(3)**
- Summary of Capital Items - **Attachment 10.6.1(4)**
- Schedule of Significant Variances - **Attachment 10.6.1(5)**
- Reconciliation of Budget Movements - **Attachment 10.6.1(6)(A) and 10.6.1(6)(B)**
- Rate Setting Statement - **Attachment 10.6.1(7)**

Operating Revenue to 31 October 2011 is \$34.43M which represents 100% of the \$34.40M year to date budget. Revenue performance is very close to budget expectations overall - although there are some individual line item differences. General grant revenue is better than anticipated and this is recognised in the Q1 Budget Review. Meter parking is 8% ahead of budget but infringement revenue is 10% behind budget expectations. Reserve interest revenues are close to budget expectations to date but municipal interest revenue is slightly behind budget. Interim rates revenue is slightly higher than anticipated at this stage and pre-interest charges from ratepayers opting for instalment payments for rates is higher than expected. This is adjusted in the Q1 Budget Review.

Planning and Building revenues are 15% and 18% below budget respectively. This has necessarily been adjusted in the Q1 Budget Review - but is compensated by using lesser levels of staff resource in these areas. Collier Park Village revenue is in line with budget expectations whilst the Collier Park Hostel revenue remains 2% favourable following the phasing in of anticipated adjustments to some commonwealth subsidies.

Golf Course revenue remains some 22% below budget targets as revenues were again impacted by a combination of adverse weather conditions and disruption to the course during the major 9 hole course upgrade.

Infrastructure Services revenue largely relates to waste management levies at this stage of the year and these are slightly ahead of budget due to billing a higher number of services than was anticipated when the budget modelling was done. Road grant revenues have been adjusted downwards in the Q1 Budget Review following the re-distribution between general and road grants by the WALGGC.

Comment on the specific items contributing to the variances may be found in the Schedule of Significant Variances **Attachment 10.6.1(5)**.

Operating Expenditure to 31 October 2011 is \$16.05M which represents 111% of the year to date budget. Operating Expenditure is 1% over budget in the Administration area, 8% under budget for the golf course and presents as 21% over budget in the Infrastructure Services area. However, this is not an accurate reflection of the situation as significantly higher depreciation expense (non cash item) attributable to major infrastructure revaluations is responsible for all of this apparent over-expenditure. In fact, on removing this anomaly, expenditure in the Infrastructure Services is slightly under budget.

Cash operating expenses are typically favourable to budget due to a combination of factors including approved but vacant staff positions and favourable timing differences on invoicing by suppliers. Relevant adjustments have been made in the Q1 Budget Review for costs associated with signage for the new dog law, demolition of the Swan Street property and election costs etc.

Most infrastructure maintenance activities including park and grounds maintenance and roads and paths maintenance are broadly in line with budget expectations whilst building maintenance activities are currently quite favourable due to programs being readied for implementation pending contractor availability and suitable weather conditions. These variances are all expected to reverse back in line with budget expectations in the next few months. Waste management costs are close to budget expectations. Golf Course expenditure is currently 8% favourable due to timing considerations.

The most significant variance, as noted above, is that associated with depreciation expense in the area of asset holding costs associated with roads, paths and drains. New valuation methodologies introduced at 30 June 2011 resulted in a \$57.7M increase in the carrying value of these classes of infrastructure assets. As a consequence the non cash depreciation expense required to be disclosed in the accounts is expected to increase by some \$5M over the full year. This was not accounted for at the time the budget was derived - because it was not a known impact. Because non cash expenses such as depreciation are 'added back' when determining the budget position and the amount required from rates, these critical financial figures will not be affected by this change.

There are several budgeted (but vacant) staff positions across the organisation that are presently being recruited for. The salaries budget (*including temporary staff where they are being used to cover vacancies*) is currently around 2.0% under the budget allocation for the 227.2 FTE positions approved by Council in the budget process. The factors impacting this include vacant positions yet to be filled, staff on leave and timing differences on agency staff invoices.

Comment on the specific items contributing to the operating expenditure variances may be found in the Schedule of Significant Variances - **Attachment 10.6.1(5)**.

Capital Revenue is disclosed as \$2.57M at 31 October against a year to date budget of \$2.46M. This variance is attributable to the receipt of a small unbudgeted capital grant from the Swan River Trust. This revenue and the offsetting expenditure is adjusted in the Q1 Budget Review. Details of the capital revenue variances may be found in the Schedule of Significant Variances. **Attachment 10.6.1(5)**.

Capital Expenditure at 31 October 2011 is \$7.73M representing 89% of the year to date budget of \$6.85M. At this stage almost half of the expenditure relates to the CPGC work.

The table reflecting capital expenditure progress versus the year to date budget by directorate is presented below. Comments on specific elements of the capital expenditure program and variances disclosed therein are provided bi-monthly from the October management accounts onwards.

**TABLE 1 - CAPITAL EXPENDITURE BY DIRECTORATE**

Directorate	YTD Budget	YTD Actual	% YTD Budget	Total Budget
CEO Office	65,000	91,802	141%	255,000
Financial & Information Services	107,500	94,926	88%	1,300,000
Development & Community Services	365,000	250,897	69%	1,215,000
Infrastructure Services	1,921,606	1,781,229	93%	8,624,924
Waste Management	80,360	126,109	143%	170,360
Golf Course	4,190,460	3,505,306	84%	5,768,760
UGP	1,000,000	997,179	99%	5,300,000
<b>Total</b>	<b>7,729,926</b>	<b>6,847,448</b>	<b>89%</b>	<b>22,634,044</b>

### **Consultation**

This financial report is prepared to provide financial information to Council and to evidence the soundness of the administration's financial management. It also provides information about corrective strategies being employed to address any significant variances and it discharges accountability to the City's ratepayers.

### **Policy and Legislative Implications**

This report is in accordance with the requirements of the Section 6.4 of the *Local Government Act* and Local Government Financial Management Regulation 34.

### **Financial Implications**

The attachments to this report compare actual financial performance to budgeted financial performance for the period. This provides for timely identification of and responses to variances which in turn promotes dynamic and prudent financial management.

### **Strategic Implications**

This report deals with matters of sustainable financial management which directly relate to the key result area of Governance identified in the City's Strategic Plan - *'To ensure that the City's governance enables it to respond to the community's vision and deliver on its promises in a sustainable manner'*.

### **Sustainability Implications**

This report addresses the 'financial' dimension of sustainability by promoting accountability for resource use through a historical reporting of performance - emphasising pro-active identification and response to apparent financial variances. Furthermore, through the City exercising disciplined financial management practices and responsible forward financial planning, we can ensure that the consequences of our financial decisions are sustainable into the future.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.1</b>
--

That ....

- (a) the monthly Statement of Financial Position and Financial Summaries provided as **Attachment 10.6.1(1-4)** be received;
- (b) the Schedule of Significant Variances provided as **Attachment 10.6.1(5)** be accepted as having discharged Council's statutory obligations under Local Government (Financial Management) Regulation 34.
- (c) the Schedule of Movements between the Adopted and Amended Budget **Attachments 10.6.1(6)(A)** and **10.6.1(6)(B)** be received;
- (d) the Rate Setting Statement provided as **Attachment 10.6.1(7)** be received.

CARRIED EN BLOC RESOLUTION

<b>10.6.2 Monthly Statement of Funds, Investments and Debtors at 31 October 2011</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	9 November 2011
Authors:	Michael J Kent and Deborah M Gray
Reporting Officer:	Michael J Kent, Director Financial and Information Services

### **Summary**

This report presents to Council a statement summarising the effectiveness of treasury management for the month including:

- The level of controlled Municipal, Trust and Reserve funds at month end.
- An analysis of the City's investments in suitable money market instruments to demonstrate the diversification strategy across financial institutions.
- Statistical information regarding the level of outstanding Rates and General Debtors.

### **Background**

Effective cash management is an integral part of proper business management. Current money market and economic volatility make this an even more significant management responsibility. The responsibility for management and investment of the City's cash resources has been delegated to the City's Director Financial and Information Services and Manager Financial Services - who also have responsibility for the management of the City's Debtor function and oversight of collection of outstanding debts.

In order to discharge accountability for the exercise of these delegations, a monthly report is presented detailing the levels of cash holdings on behalf of the Municipal and Trust Funds as well as funds held in 'cash backed' Reserves. As significant holdings of money market instruments are involved, an analysis of cash holdings showing the relative levels of investment with each financial institution is also provided.

Statistics on the spread of investments to diversify risk provide an effective tool by which Council can monitor the prudence and effectiveness with which these delegations are being exercised.

Data comparing actual investment performance with benchmarks in Council's approved investment policy (which reflects best practice principles for managing public monies) provides evidence of compliance with approved investment principles.

Finally, a comparative analysis of the levels of outstanding rates and general debtors relative to the same stage of the previous year is provided to monitor the effectiveness of cash collections and to highlight any emerging trends that may impact on future cash flows.

### **Comment**

#### **(a) Cash Holdings**

Total funds at month end of \$51.43M (\$50.26M last month) compare to \$48.52M at the equivalent stage of last year. Reserve funds are \$2.40M higher overall than the level they were at the same time last year - reflecting \$1.9M higher holdings of cash backed reserves to support refundable monies at the CPV and CPH. The UGP Reserve is \$0.9M lower. The Sustainability and River Wall Reserves are each \$0.3M higher whilst the Technology Reserve is \$0.2M higher (quarantined funds for the new corporate document management system). The Future Building Works Reserve is \$1.0M higher when compared to last year. The CPGC Reserve is also \$0.6M lower as funds are applied to the Island Nine project.

Municipal funds are \$0.60M higher. Collections from rates so far are very slightly behind last year - with a clearer indication of collections to emerge after the second instalment date in November. Progress to date suggests that our convenient and customer friendly payment methods, supplemented by the Rates Early Payment Incentive Prizes (with all prizes donated by local businesses), are having a very positive effect on our cash inflows.



Funds brought into the year (and subsequent cash collections) are invested in secure financial instruments to generate interest until those monies are required to fund operations and projects during the year. Astute selection of appropriate investments means that the City does not have any exposure to known high risk investment instruments. Nonetheless, the investment portfolio is dynamically monitored and re-balanced as trends emerge.

Excluding the 'restricted cash' relating to cash-backed Reserves and monies held in Trust on behalf of third parties; the cash available for Municipal use currently sits at \$18.53M (compared to \$17.99M last month). It was \$17.93M at the equivalent time in 2010/2011. **Attachment 10.6.2(1).**

**(b) Investments**

Total investment in money market instruments at month end was \$48.91M compared to \$47.88M at the same time last year. This is due to the slightly higher holdings of Reserve and Municipal Funds as investments.

The portfolio currently comprises at-call cash and term deposits only. Although bank accepted bills are permitted, they are not currently used given the volatility of the corporate environment at present. Analysis of the composition of the investment portfolio shows that approximately 99.0% of the funds are invested in securities having a S&P rating of A1 (short term) or better. The remainder are invested in BBB+ rated securities.

The City's investment policy requires that at least 80% of investments are held in securities having an S&P rating of A1. This ensures that credit quality is maintained. Investments are made in accordance with Policy P603 and the Dept of Local Government Operational Guidelines for investments. All investments currently have a term to maturity of less than one year - which is considered prudent in times of changing interest rates as it allows greater flexibility to respond to possible future positive changes in rates.

Invested funds are responsibly spread across various approved financial institutions to diversify counterparty risk. Holdings with each financial institution are within the 25% maximum limit prescribed in Policy P603. Counterparty mix is regularly monitored and the portfolio re-balanced as required depending on market conditions. The counter-party mix across the portfolio is shown in **Attachment 10.6.2(2).**

Total interest revenues (received and accrued) for the year to date total \$0.74M - compared to \$0.75M at the same time last year. Whilst the City has slightly higher levels of cash invested at this time - it has been invested for a lesser term so far.

Investment performance continues to be monitored in the light of current modest interest rates to ensure that we pro-actively identify secure, but higher yielding investment opportunities as well as recognising any potential adverse impact on the budget closing position. Throughout the year, we re-balance the portfolio between short and longer term investments to ensure that the City can responsibly meet its operational cash flow needs.

Treasury funds are actively managed to pursue responsible, low risk investment opportunities that generate additional interest revenue to supplement our rates income whilst ensuring that capital is preserved.

The weighted average rate of return on financial instruments for the year to date is 5.83% with the anticipated weighted average yield on investments yet to mature now also sitting at 5.83% (compared with 5.84% last month). At-call cash deposits used to balance daily operational cash needs still provide a modest return of only 4.50% - unchanged since the November 2010 Reserve Bank decision on interest rates.

**(c) Major Debtor Classifications**

Effective management of accounts receivable to convert the debts to cash is also an important part of business management. Details of each of the three major debtor's category classifications (rates, general debtors and underground power) are provided below.

**(i) Rates**

The level of outstanding local government rates relative to the same time last year is shown in **Attachment 10.6.2(3)**. Rates collections to the end of October 2011 (after the due date for the first instalment) represent 72.0% of rates levied compared to 72.8% at the equivalent stage of the previous year.

This provides convincing evidence of the good acceptance of the rating strategy and communication approach used by the City in developing the 2011/2012 Annual Budget and the range of appropriate, convenient and user friendly payment methods offered by the City. Combined with the Rates Early Payment Incentive Scheme (generously sponsored by local businesses) these have provided strong encouragement for ratepayers - as evidenced by the collections to date.

This collection result is being supported administratively throughout the year by timely and efficient follow up actions by the City's Rates Officer to ensure that our good collections record is maintained.

**(ii) General Debtors**

General debtors (excluding UGP debtors) stand at \$1.22M at month end (\$2.04M last year) (\$0.90M last month). GST receivable is some \$0.5M lower but the prompt collection of a Pension Rebate Claims and tight management of Parking Infringement debts has resulted in a pleasing change in the composition of the outstanding debtors' balances relative to this time last year. This is particularly important with respect to effectively maintaining our cash liquidity in the light of the less than anticipated budget opening position for 2011/2012.

The majority of the outstanding amounts are government and semi government grants or rebates (other than infringements) - and as such, they are considered collectible and represent a timing issue rather than any risk of default.

**(iii) Underground Power**

Of the \$6.74M billed for UGP Stage 3 project, (allowing for adjustments), some \$6.33M was collected by 31 October with approximately 83.4% of those in the affected area having now paid in full and a further 15.9% opting to pay by instalments. The remaining properties were disputed billing amounts. Final notices were issued and these amounts have been pursued by external debt collection agencies as they had not been satisfactorily addressed in a timely manner. As a result of these actions, legal proceedings were instituted in relation to three outstanding debts (two have since been settled). 2 other paid in full, 8 have commenced a payment plan. Only 1 other has yet to reach a satisfactory payment arrangement - and this continues to be pursued as a delinquent debtor.

Collections in full continue to be better than expected as UGP accounts are being settled in full ahead of changes of ownership or as an alternative to the instalment payment plan.

Residents opting to pay the UGP Service Charge by instalments continue to be subject to interest charges which accrue on the outstanding balances (as advised on the initial UGP notice). It is important to recognise that this is **not** an interest charge on the UGP service charge - but rather is an interest charge on the funding accommodation provided by the City's instalment payment plan (like what would occur on a bank loan). The City encourages ratepayers in the affected area to make other arrangements to pay the UGP charges - but it is, if required, providing an instalment payment arrangement to assist the ratepayer (including the specified interest component on the outstanding balance).

### **Consultation**

This financial report is prepared to provide evidence of the soundness of the financial management being employed by the City whilst discharging our accountability to our ratepayers.

### **Policy and Legislative Implications**

Consistent with the requirements of Policy P603 - Investment of Surplus Funds and Delegation DC603. Local Government (Financial Management) Regulation 19, 28 and 49 are also relevant to this report as is the DOLG Operational Guideline 19.

### **Financial Implications**

The financial implications of this report are as noted in part (a) to (c) of the Comment section of the report. Overall, the conclusion can be drawn that appropriate and responsible measures are in place to protect the City's financial assets and to ensure the collectibility of debts.

### **Strategic Implications**

This report deals with matters of sustainable financial management which directly relate to the key result area of Governance identified in the City's Strategic Plan - *'To ensure that the City's governance enables it to respond to the community's vision and deliver on its promises in a sustainable manner'*.

### **Sustainability Implications**

This report addresses the 'financial' dimension of sustainability by ensuring that the City exercises prudent but dynamic treasury management to effectively manage and grow our cash resources and convert debt into cash in a timely manner.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.2</b>
--

That Council receives the 31 October 2011 Statement of Funds, Investment and Debtors comprising:

- Summary of All Council Funds as per **Attachment 10.6.2(1)**
- Summary of Cash Investments as per **Attachment 10.6.2(2)**
- Statement of Major Debtor Categories as per **Attachment 10.6.2(3)**

**CARRIED EN BLOC RESOLUTION**

### 10.6.3 Listing of Payments

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	6 November 2011
Authors:	Michael J Kent and Deborah M Gray
Reporting Officer:	Michael J Kent, Director Financial and Information Services

#### Summary

A list of accounts paid under delegated authority (Delegation DC602) between 1 October 2011 and 31 October 2011 is presented to Council for information.

#### Background

Local Government Financial Management Regulation 11 requires a local government to develop procedures to ensure the proper approval and authorisation of accounts for payment. These controls relate to the organisational purchasing and invoice approval procedures documented in the City's Policy P605 - Purchasing and Invoice Approval. They are supported by Delegation DM605 which sets the authorised purchasing approval limits for individual officers. These processes and their application are subjected to detailed scrutiny by the City's auditors each year during the conduct of the annual audit.

After an invoice is approved for payment by an authorised officer, payment to the relevant party must be made and the transaction recorded in the City's financial records. All payments, however made (EFT or Cheque) are recorded in the City's financial system irrespective of whether the transaction is a Creditor (regular supplier) or Non Creditor (once only supply) payment.

Payments in the attached listing are supported by vouchers and invoices. All invoices have been duly certified by the authorised officers as to the receipt of goods or provision of services. Prices, computations, GST treatments and costing have been checked and validated. Council Members have access to the Listing and are given opportunity to ask questions in relation to payments prior to the Council meeting.

#### Comment

A list of payments made during the reporting period is prepared and presented to the next ordinary meeting of Council and recorded in the minutes of that meeting. It is important to acknowledge that the presentation of this list of payments is for information purposes only as part of the responsible discharge of accountability. Payments made under this delegation can not be individually debated or withdrawn.

The report format now reflects contemporary practice in that it now records payments classified as:

- **Creditor Payments**

*(regular suppliers with whom the City transacts business)*

These include payments by both Cheque and EFT. Cheque payments show both the unique Cheque Number assigned to each one and the assigned Creditor Number that applies to all payments made to that party throughout the duration of our trading relationship with them. EFT payments show both the EFT Batch Number in which the payment was made and also the assigned Creditor Number that applies to all payments made to that party. For instance, an EFT payment reference of 738.76357 reflects that EFT Batch 738 included a payment to Creditor number 76357 (Australian Taxation Office).

- **Non Creditor Payments**

*(one-off payments to individuals / suppliers who are not listed as regular suppliers in the City's Creditor Masterfile in the database).*

Because of the one-off nature of these payments, the listing reflects only the unique Cheque Number and the Payee Name - as there is no permanent creditor address / business details held in the creditor's masterfile. A permanent record does, of course, exist in the City's financial records of both the payment and the payee - even if the recipient of the payment is a non creditor.

Details of payments made by direct credit to employee bank accounts in accordance with contracts of employment are not provided in this report for privacy reasons nor are payments of bank fees such as merchant service fees which are direct debited from the City's bank account in accordance with the agreed fee schedules under the contract for provision of banking services.

Payments made through the Accounts Payable function are no longer recorded as belonging to the Municipal Fund or Trust Fund as this practice related to the old fund accounting regime that was associated with Treasurers Advance Account - whereby each fund had to periodically 'reimburse' the Treasurers Advance Account.

For similar reasons, the report is also now being referred to using the contemporary terminology of a Listing of Payments rather than a Warrant of Payments - which was a terminology more correctly associated with the fund accounting regime referred to above.

**Consultation**

This financial report is prepared to provide financial information to Council and the administration and to provide evidence of the soundness of financial management being employed. It also provides information and discharges financial accountability to the City's ratepayers.

**Policy and Legislative Implications**

Consistent with Policy P605 - Purchasing and Invoice Approval and Delegation DM605.

**Financial Implications**

Payment of authorised amounts within existing budget provisions.

**Strategic Implications**

This report deals with matters of sustainable financial management which directly relate to the key result area of Governance identified in the City's Strategic Plan - *'To ensure that the City's governance enables it to respond to the community's vision and deliver on its promises in a sustainable manner'*.

**Sustainability Implications**

This report contributes to the City's financial sustainability by promoting accountability for the use of the City's financial resources.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.3</b>
--

That the Listing of Payments for the month of October 2011 as detailed in the report of the Director of Financial and Information Services, **Attachment 10.6.3**, be received.

CARRIED EN BLOC RESOLUTION

<b>10.6.4 Budget Review for the Quarter ended 30 September 2011</b>
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Location: City of South Perth  
Applicant: Council  
File Ref: FM/301  
Date: 9 November 2011  
Author: Michael J Kent, Director Financial and Information Services  
Reporting Officer: Cliff Frewing, Chief Executive Officer

**Summary**

A comprehensive review of the 2011/2012 Adopted Budget for the period to 30 September 2011 has been undertaken within the context of the approved budget programs. Comment on the identified variances and suggested funding options for those identified variances are provided. Where new opportunities have presented themselves, or where these may have been identified since the budget was adopted, they have also been included - providing that funding has been able to be sourced or re-deployed.

The Budget Review recognises two primary groups of adjustments:

- those that increase the Budget Closing Position
- (new funding opportunities or savings on operational costs)
- those that decrease the Budget Closing Position
- (reduction in anticipated funding or new / additional costs)

The underlying theme of the review is to ensure that a 'balanced budget' funding philosophy is retained. Wherever possible, those service areas seeking additional funds to what was originally approved for them in the budget development process are encouraged to seek / generate funding or to find offsetting savings in their own areas.

**Background**

Under the *Local Government Act 1995* and the Local Government (Financial Management) Regulations, Council is required to review the Adopted Budget and assess actual values against budgeted values for the period at least once a year - after the December quarter.

This requirement recognises the dynamic nature of local government activities and the need to continually reassess projects competing for limited funds - to ensure that community benefit from available funding is maximised. It should also recognise emerging beneficial opportunities and react to changing circumstances throughout the financial year so that the City makes responsible and sustainable use of the financial resources at its disposal.

Although not required to perform budget reviews at greater frequency, the City chooses to conduct a Budget Review at the end of the September, December and March quarters each year - believing that this approach provides more dynamic and effective treasury management than simply conducting the one statutory half yearly review.

The results of the Half Yearly (Q2) Budget Review will be forwarded to the Department of Local Government for their review after they are endorsed by Council. This requirement allows the Department to provide a value-adding service in reviewing the ongoing financial sustainability of each of the local governments in the state - based on the information contained in the Budget Review. However, local governments are encouraged to undertake more frequent budget reviews if they desire - as this is good financial management practice. As noted above, the City takes this opportunity each quarter. This particular review incorporates all known variances up to 30 September 2011.

Comments in the Budget Review are made on variances that have either crystallised or are quantifiable as future items - but not on items that simply reflect a timing difference (scheduled for one side of the budget review period - but not spent until the period following the budget review).

### **Comment**

The Budget Review is typically presented in three parts:

- Amendments resulting from normal operations in the quarter under review **Attachment 10.6.4(1)**

*These are items which will directly affect the Municipal Surplus. The City's Financial Services team critically examine recorded revenue and expenditure accounts to identify potential review items. The potential impact of these items on the budget closing position is carefully balanced against available cash resources to ensure that the City's financial stability and sustainability is maintained. The effect on the Closing Position (increase / decrease) and an explanation for the change is provided for each item.*

- Items funded by transfers to or from existing Cash Reserves are shown as **Attachment 10.6.4(2).**

*These items reflect transfers back to the Municipal Fund of monies previously quarantined in Cash-Backed Reserves or planned transfers to Reserves. Where monies have previously been provided for projects scheduled in the current year, but further investigations suggest that it would be prudent to defer such projects until they can be responsibly incorporated within larger integrated precinct projects identified within the Strategic Financial Plan (SFP or until contractors / resources become available), they may be returned to a Reserve for use in a future year. There is no impact on the Municipal Surplus for these items as funds have been previously provided.*

- Cost Neutral Budget Re-allocation - **Attachment 10.6.4(3)**

These items represent the re-distribution of funds already provided in the Budget adopted by Council on 12 July 2011.

*Primarily these items relate to changes to more accurately attribute costs to those cost centres causing the costs to be incurred. There is no impost on the Municipal Surplus for these items as funds have already been provided within the existing budget.*

*Where quantifiable savings have arisen from completed projects, funds may be redirected towards other proposals which did not receive funding during the budget development process due to the limited cash resources available.*

*This section also includes amendments to "Non-Cash" items such as Depreciation or the Carrying Costs (book value) of Assets Disposed of. These items have no direct impact on either the projected Closing Position or the City's cash resources.*

### **Consultation**

External consultation is not a relevant consideration in a financial management report although budget amendments have been discussed with responsible managers within the organisation where appropriate prior to the item being included in the Budget Review.

**Policy and Legislative Implications**

Whilst compliance with statutory requirements necessitates only a half yearly budget review (with the results of that review forwarded to the Department of Local Government), good financial management dictates more frequent and dynamic reviews of budget versus actual financial performance.

**Financial Implications**

The amendments contained in the attachment to this report that directly relate to directorate activities will result in a net change of (\$66,287) to the projected 2011/2012 Budget Closing Position as a consequence of the review of operations. The budget closing position is calculated in accordance with the Department of Local Government’s guideline - which is a modified accrual figure adjusted for restricted cash. It does not represent a cash surplus - nor available funds.

It is essential that this is clearly understood as less than anticipated collections of Rates or UGP debts during the year can move the budget from a balanced budget position to a deficit.

The adopted budget at 12 July showed an estimated Closing Position of \$208,213. The changes recommended in the Q1 Budget Review will result in the estimated 2011/2012 Closing Position being adjusted to \$141,926 after allowing for required adjustments to the estimated opening position, accrual movements, loan principal repayments and reserve transfers.

The impact of the proposed amendments (Q1 Budget Review only) on the financial arrangements of each of the City’s directorates is disclosed in Table 1 below. Figures shown apply only to those amendments contained in the attachments to this report (not any previous amendments). Table 1 includes only items directly impacting on the Closing Position and excludes transfers to and from cash backed reserves - which are neutral in effect. Wherever possible, directorates are encouraged to contribute to their requested budget adjustments by sourcing new revenues or adjusting proposed expenditures.

The adjustment to the Opening Balance shown in the tables below refers to the difference between the Estimated Opening Position used at the budget adoption date (July) and the (lesser) final Actual Opening Position as determined after the close off and audit of the 2010/2011 year end accounts. Adjustments to loan principal repayments relate to changes in the timing (deferral) of budgeted borrowings - and movements in loan interest rates.

**TABLE 1: (Q1 BUDGET REVIEW ITEMS ONLY)**

Directorate	Increase Surplus	Decrease Surplus	Net Impact
Office of CEO	86,000	(115,000)	(29,000)
Financial and Information Services	361,500	(218,000)	143,500
Development and Community Services	110,000	(150,000)	(40,000)
Infrastructure Services	697,711	(910,711)	(213,000)
Opening Position	0	(192,787)	(192,787)
Accruals & Loan Principal Movements	20,000	0	20,000
Special Review Items	245,000	0	245,000
<b>Total</b>	<b>\$1,520,211</b>	<b>(\$1,586,498)</b>	<b>(\$66,287)</b>

A positive number in the Net Impact column on the preceding table reflects a contribution towards improving the Budget Closing Position by a particular directorate.

The cumulative impact of all budget amendments for the year to date (including those between the budget adoption and the date of this review) is reflected in Table 2 below.



**TABLE 2 : (CUMULATIVE IMPACT OF ALL 2011/2012 BUDGET ADJUSTMENTS) \***

Directorate	Increase Surplus	Decrease Surplus	Net Impact
Office of CEO	86,000	(115,000)	(29,000)
Financial and Information Services	361,500	(218,000)	143,500
Development and Community Services	110,000	(150,000)	(40,000)
Infrastructure Services	697,711	(910,711)	(213,000)
Opening Position	0	(192,787)	(192,787)
Accruals & Loan Principal Movements	20,000	0	20,000
Special Review Items	245,000	0	245,000
<b>Total change in Adopted Budget</b>	<b>\$1,520,211</b>	<b>(\$1,586,498)</b>	<b>(\$66,287)</b>

The cumulative impact table (Table 2 above) provides a very effective practical illustration of how a local government can (and should) dynamically manage its budget to achieve the best outcomes from its available resources. Whilst there have been a number of budget movements within individual areas of the City's budget, the overall budget closing position has only moved from the \$208,213 as determined by Council when the budget was adopted in July 2011 to \$66,287 after including all budget movements to date.

#### **Strategic Implications**

This report deals with matters of sustainable financial management which directly relate to the key result area of Governance identified in the City's Strategic Plan - *'To ensure that the City's governance enables it to respond to the community's vision and deliver on its promises in a sustainable manner'*.

#### **Sustainability Implications**

This report addresses the City's ongoing financial sustainability through critical analysis of historical performance, emphasising pro-active identification of financial variances and encouraging responsible management responses to those variances. Combined with dynamic treasury management practices, this maximises community benefit from the use of the City's financial resources - allowing the City to re-deploy savings or access unplanned revenues to capitalise on emerging opportunities. It also allows proactive intervention to identify and respond to cash flow challenges that may arise as a consequence of timing differences in major transactions such as land sales.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.4</b>
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That following the detailed review of financial performance for the period ending 30 September 2011, the budget estimates for Revenue and Expenditure for the 2011/2012 Financial Year, (adopted by Council on 12 July 2011 and as subsequently amended by resolutions of Council to date), be amended as per the following attachments to this Council Agenda:

- Amendments identified from normal operations in the Quarterly Budget Review; **Attachment 10.6.4(1)**;
- Items funded by transfers to or from Reserves; **Attachment 10.6.4(2)**; and
- Cost neutral re-allocations of the existing Budget **Attachment 10.6.4(3)**.

CARRIED EN BLOC RESOLUTION  
And By Required Absolute Majority

### **10.6.5 Capital Projects Review to 31 October 2011**

Location: City of South Perth  
Applicant: Council  
File Ref: FM/301  
Date: 09 November 2011  
Author: Michael J Kent, Director Financial and Information Services  
Reporting Officer: Cliff Frewing, Chief Executive Officer

#### **Summary**

A schedule of financial performance supplemented by relevant comments is provided in relation to approved capital projects to 31 October 2011. Officer comment is provided only on the significant identified variances as at the reporting date.

#### **Background**

A schedule reflecting the financial status of all approved capital projects is prepared on a bi-monthly basis early in the month immediately following the reporting period - and then presented the next ordinary meeting of Council. The schedule is presented to Council Members to provide an opportunity for them to receive timely information on the progress of capital works program and to allow them to seek clarification and updates on scheduled projects.

The complete Schedule of Capital Projects and attached comments on significant project line item variances provide a comparative review of the Budget versus Actual Expenditure and Revenues on all Capital Items. Although all projects are listed on the schedule, brief comment is only provided on the significant variances identified. This is to keep the report to a reasonable size and to emphasise the reporting by exception principle.

#### **Comment**

Excellence in financial management and good governance require an open exchange of information between Council Members and the City's administration. An effective discharge of accountability to the community is also effected by tabling this document and the relevant attachments to a meeting of Council.

Overall, expenditure on the Capital Program represents 89.0% of the year to date target - and 30.0% of the full year's budget. The Executive Management Team acknowledges the challenge of delivering the remaining capital program and remains cognisant of the impact of:

- contractor and staff resource shortages
- community consultation on project delivery timelines
- challenges in obtaining complete bids for small capital projects.

It therefore closely monitors and reviews the capital program with operational managers on an ongoing basis - seeking strategies and updates from each of them in relation to the responsible and timely expenditure of the capital funds within their individual areas of responsibility. The City also uses the 'Deliverable' and 'Shadow' Capital Program concept to more appropriately match capacity with intended actions and is using cash backed reserves to quarantine funds for future use on identified projects.

Comments on the broad capital expenditure categories are provided in **Attachment 10.6.1(5)** of this agenda - and details on specific projects impacting on this situation are provided in **Attachment 10.6.5 (1)** and **Attachment 10.6.5 (2)** to this report. Comments on the relevant projects have been sourced from those managers with specific responsibility for the identified project lines and their responses have been summarised in the attached Schedule of Comments.

**Consultation**

For all identified variances, comment has been sought from the responsible managers prior to the item being included in the Capital Projects Review.

**Policy and Legislative Implications**

Consistent with relevant professional pronouncements but not directly impacted by any in-force policy of the City.

**Financial Implications**

The tabling of this report involves the reporting of historical financial events only. Preparation of the report and schedule require the involvement of managerial staff across the organisation, hence there will necessarily be some commitment of resources towards the investigation of identified variances and preparation of the Schedule of Comments. This is consistent with responsible management practice.

**Strategic Implications**

This report deals with matters of sustainable financial management which directly relate to the key result area of Governance identified in the City's Strategic Plan - *'To ensure that the City's governance enables it to respond to the community's vision and deliver on its promises in a sustainable manner'*.

**Sustainability Implications**

This report addresses the 'Financial' dimension of sustainability. It achieves this by promoting accountability for resource use through a historical reporting of performance. This emphasises the proactive identification of apparent financial variances, creates an awareness of our success in delivering against our planned objectives and encourages timely and responsible management intervention where appropriate to address identified issues.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.5</b>
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That the Schedule of Capital Projects complemented by officer comments on identified significant variances to 31 October 2011, as per **Attachments 10.6.5(1)** and **10.6.5(2)**, be received.

CARRIED EN BLOC RESOLUTION

<b>10.6.6 Council Meeting Schedule 2012</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	A/ME/2
Date:	3 November 2011
Author:	Kay Russell, Executive Support Officer
Reporting Officer: :	P McQue, Manager Governance and Administration

**Summary**

The purpose of this report is to adopt the Council Meeting / Agenda Briefing Schedule for the 2012 year.

**Background**

It is customary to set the Council meeting calendar as early as possible so that meeting dates are known and dates can be advertised to the public well in advance. Typically, Council meets on the fourth Tuesday in each month with the Agenda Briefing on the preceding Tuesday.

Exceptions to the above for 2012 are:

- during January when the Council is in recess any urgent matters that may arise, that the Chief Executive Officer does not have authority to deal with, will be the subject of a Special Meeting of Council. Clause 3.1 of the Standing Orders Local Law 2007 ‘*Calling and Convening Meetings*’ refers. During this period, the Chief Executive Officer will continue to manage the day-to-day operations of the local government as he is empowered to do in accordance with the *Local Government Act*; and
- in December when the ordinary scheduled Council meeting date is usually brought forward by one week to accommodate the Christmas period. In 2012 this would mean the December meeting would be held on 18 December, only four working days before Christmas Eve which would allow very little time for the preparation of the Council Minutes and the implementation / ‘action’ of Council resolutions. It is more appropriate that the December Council Meeting be brought forward by 2 weeks to 11 December (as was the case with the December 2010 and 2011 Meetings).

**Comment**

A resolution is required to adopt the Council Meeting / Agenda Briefing Schedule for the year 2012. The dates of all of these meetings, open to the public, are known well in advance and can therefore be advertised early in the new year. The ‘standard’ meeting schedule for 2012 is as follows:

<b>Council Agenda Briefings 2012</b>		<b>Ord. Council Meetings 2012</b>	
<b>January</b>	<b>Recess</b>	<b>January</b>	<b>Recess</b>
February	21.2.2012	February	28.2.2012
March	20.3.2012	March	27.3.2012
April	17.4.2012	April	24.4.2012
May	15.5.2012	May	22.5.2012
June	19.6.2012	June	26.6.2012
July	17.7.2012	July	24.7.2012
August	21.8.2012	August	28.8.2012
September	18.9.2012	September	25.9.2012
October	16.10.2012	October	23.10.2012
November	20.11.2012	November	27.11.2012
<b>December</b>	<b>4.12.2012</b>	<b>December</b>	<b>11.12.2012</b>

The changes proposed for January and December have been custom and practice at the City of South Perth for many years. This report is proposing continuation of this practice, albeit that for 2012 the December meeting has been brought forward by two weeks instead of the customary one week to accommodate the timing of the Christmas break. There is minimal public impact expected by the proposed changes.

Special Council Meetings

Special Council meetings are generally called on a needs basis and as a result, it is not possible to predict in advance when such meetings will be held.

**Consultation**

It is proposed to advertise the Council Meeting / Agenda Briefing Schedule for the year 2012 in the Southern Gazette newspaper and to update the internet ‘Schedule of Meetings’ accordingly. In accordance with normal practice the contents of Agendas for all meetings are included on the internet under ‘Minutes / Agendas’ and displayed on the Noticeboards in the Libraries and outside the Civic Centre Administration Offices.

**Policy Implications**

Adopting the Council Meeting schedule for the forthcoming year is in common with past practice and in line with the *Local Government Act* Regulations which state that: *at least once each year a local government is to give local public notice of the dates, time and place at which Ordinary Council Meetings/Briefings open to the public are to be held.*

**Financial Implications**

N/A

**Strategic Implications**

In line with Strategic Direction 6 “Governance” of the City’s Strategic Plan which states: *Ensure that the City’s governance enables it to both respond to the community’s vision and deliver on its service promises in a sustainable manner.*

**Sustainability Implications**

Reporting on the Council / Briefing meeting schedule for 2012 contributes to the City’s sustainability by promoting effective communication.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.6</b>
--

That the Council Meeting Schedule for 2012, as detailed in report Item 10.6.6 of the November 2011 Council Agenda be adopted and advertised for public interest.

CARRIED EN BLOC RESOLUTION

<b>10.6.7 Appointment of Deputy Delegates - Rivers Regional Council</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	GR/205/9 and GR/207
Date:	24 October 2011
Author & Reporting Officer	Cliff Frewing, Chief Executive Officer

**Summary**

The purpose of this report is to clarify the situation regarding appointment of a Council Deputy Delegate to the Rivers Regional Council.[RRC] formerly the South East Metropolitan Regional Council [SEMRC].

**Background**

At its meeting held on 26 February 2008 Council resolved as follows:

*That....*

- (a) *Council delegates to the Chief Executive Officer the ability to appoint a Council Member or Members to the South Eastern Metropolitan Regional Council [Now Rivers Regional Council] where one or both of Council’s principal Delegates is unable to attend a Regional Council meeting and there is insufficient time to obtain Council’s approval to appoint an alternative member; and*
- (b) *the delegation ceases to apply when the Local Government Act is amended to permit Member Councils to appoint Deputy Delegates to Regional Councils and that such a decision has been made by the Council.*

Council, at the Special Meeting on 18 October 2011 considered appointment of Delegates for the next two years and resolved as follows:

*That.....*

(a) *Crs Cala and Trent be appointed Delegates and Cr Gleeson Deputy Delegate to the Rivers Regional Council.....*

On a separate report contained on the Agenda at Item 10.6.12 there is a proposal to appoint an alternative Deputy Delegate to the Rivers Regional Council, but this is not relevant to this report.

The *Local Government Act* has now been amended to enable Member Councils to appoint Deputy Members who would act as Principal Members in the absence of that Member.

Before the new Act provision can come into effect, an amendment is required to be made to the series of Establishment Agreements made between the Member Councils. The *draft Deed of Amendment* is at **Attachment 10.6.7**.

### **Comment**

As can be seen from part (b) of the February 2008 Council resolution, it was necessary for Council to delegate to the CEO the authority to appoint Council's preferred Deputy Delegate to the Regional Council when one of the Principal Delegates was unable to attend a Regional Council Meeting.

With the amendment to the *Local Government Act* and execution of the *draft Deed of Amendment*, Council's October resolution (and any subsequent variation) will apply and the delegation to the CEO can cease.

To enable this action to come into effect, it is necessary for Council to resolve to execute the Deed of Agreement.

### **Consultation**

All members of the Rivers Regional Council will be required to execute the Deed of Agreement to enable Deputy Members to act as Principal Members at the Regional Council meetings.

### **Policy and Legislative Implications**

Capacity for each member Council to directly appoint a deputy delegate is now contained in the *Local Government Act* and will come into force when all members have signed the Deed of Agreement. When this occurs, the Delegation to the CEO to appoint Council's preferred deputy can cease.

### **Financial Implications**

Nil

### **Strategic Implications**

The report is aligned to Goal 6 "Governance" within the Council's Strategic Plan. Goal 6 is expressed in the following terms: *Ensure that the City's governance enables it to both respond to the community's vision and deliver on its service promises in a sustainable manner..*

### **Sustainability Implications**

Full membership of Regional Council is necessary to ensure Council's voice is heard.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.7</b>
--

That...

- (a) the Mayor and CEO be authorised to sign and place the seal of the City on the Deed of Agreement contained at **Attachment 10.6.7** to enable Deputy Delegates to be appointed by Council; and
- (b) when the Deed of Agreement has been executed by all Member Councils of the Regional Council and the Deed has been registered, the Delegation to the CEO to appoint Deputy Members to the Regional Council be terminated.

CARRIED EN BLOC RESOLUTION

<b>10.6.8 Use of the Common Seal</b>
--------------------------------------

Location:	City of South Perth
Applicant:	Council
File Ref:	GO/106
Date:	2 November 2011
Author:	Kay Russell, Executive Support Officer
Reporting Officer:	Phil McQue, Governance and Administration Manager

**Summary**

To provide a report to Council on the use of the Common Seal.

**Background**

At the October 2006 Ordinary Council Meeting the following resolution was adopted: *“That Council receive a monthly report as part of the Agenda, commencing at the November 2006 meeting, on the use of the Common Seal, listing seal number; date sealed; department; meeting date / item number and reason for use.”*

**Comment**

Clause 21.1 of the City’s Standing Orders Local Law 2007 provides that the CEO is responsible for the safe custody and proper use of the common seal.

In addition, clause 21.1 requires the CEO to record in a register:

- (i) the date on which the common seal was affixed to a document;
- (ii) the nature of the document; and
- (iii) the parties described in the document to which the common seal was affixed.

Delegation DC346 “Authority to Affix the City’s Common Seal” authorises the Chief Executive Officer or a delegated employee to affix the common seal to various categories of documents.

**Register**

The Common Seal Register is maintained on an electronic data base and is available for inspection. Extracts from the Register on the use of the Common Seal are provided each month for Elected Member information.

MINUTES : ORDINARY COUNCIL MEETING: 22 NOVEMBER 2011

**September 2011**

<b>Nature of Document</b>	<b>Parties</b>	<b>Date Seal Affixed</b>
Landgate form 5A - Application to remove an encumbrance from the title of 15 Alston Ave prior to settlement	Landgate & City of South Perth	1 September 2011
Notification under Section 70A (Ancillary Accommodation at a residence on Canning Hwy)	Annette Gail Pears & City of South Perth	1 September 2011
Surrender of easement T1069/1942 from Lot 114 on Diagram 67744 being the whole of the land on the title Volume 1783 Folio 230.	City of South Perth & Hardie Finance Corporation	1 September 2011
Surrender of easement T1069/1942 from Lot 114 on Diagram 67744 being the whole of the land on the title Volume 1783 Folio 230.	City of South Perth & Water Corporation	1 September 2011
Collaborative arrangement - Riverbank Grants Scheme 12SP02, Salter Point Foreshore Restoration	Swan River Trust & the City of South Perth	13 September 2011
Loan Agreement	WA Treasury Corporation & City of South Perth	23 September 2011
Notification under Section 70A (Ancillary Accommodation at a residence on Lockhart Street, Como)	BJ Dean & S Bulloot and the City of South Perth	23 September 2011
Transfer of Land (219 & 221 Labouchere Road formerly 15-17 Alston Ave)	City of South Perth, Synergy (WA) Pty Ltd & Tonic Holdings Pty Ltd	29 September 2011

**October 2011**

<b>Nature of Document</b>	<b>Parties</b>	<b>Date Seal Affixed</b>
Resident Agreement for Low Care (Hostel) Residents	City of South Perth and Mrs Elsie Burnett	3 October 2011
Deed of Variation	City of South Perth and Hazel Heard	5 October 2011
Surrender of Easement to facilitate extension of Ray St, South Perth	Owners of Esplanade Court and the City of South Perth	5 October 2011
Notification Under Section 70A	Fang Ying Fu, Jerome Mee Huo Leu & the City of South Perth	5 October 2011
City of South Perth Parking Local Law 2011 x4	City of South Perth	5 October 2011
City of South Perth Public Places and Local Government Property Local Law 2011 x4	City of South Perth	5 October 2011
Deed of Agreement to Lease x 3	City of South Perth & Phyllis Rose Thomson	5 October 2011
Lease x 3	City of South Perth & Phyllis Rose Thomson	5 October 2011
Surrender of Easement A204584 over Lot 4000 on Deposited Plan 44883 (Cygna Cove)	The State of WA through the Minister for Lands and the City of South Perth	19 October 2011
Withdrawal of Caveat from Lot 9000 on Deposited Plan 44863	The City of South Perth	19 October 2011
Lease	City of South Perth & Lynda Elizabeth Allen	19 October 2011
Letter of Authorisation for Century Settlements to act on behalf of the City in Application for new titles on 6 Ray Street South Perth	City of South Perth	24 October 2011
Landgate Form B1- Application for new titles on 6 Ray Street South Perth	City of South Perth	24 October 2011
Resident agreement for low care (hostel) residents	City of South Perth and Mr Ian Gardner	27 October 2011



**Consultation**

Not applicable.

**Policy and Legislative Implications**

Clause 21 of the City's Standing Orders Local Law 2007 describes the requirements for the safe custody and proper use of the common seal.

**Financial Implications**

Nil.

**Strategic Implications**

The report aligns to Strategic Direction 6 of the Strategic Plan - *Governance – Ensure that the City's governance enables it to both respond to the community's vision and deliver on its service promises in a sustainable manner.*

**Sustainability Implications**

Reporting of the use of the Common Seal contributes to the City's sustainability by promoting effective communication.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.8</b>
--

That the report on the use of the Common Seal for the months of September and October 2011 be received.

CARRIED EN BLOC RESOLUTION

<b>10.6.9 Applications for Planning Approval Determined Under Delegated Authority</b>
---

Location:	City of South Perth
Applicant:	Council
File Ref:	GO/106
Date:	1 November 2011
Author:	Rajiv Kapur, Manager, Development Services
Reporting Officer:	Vicki Lummer, Director, Development and Community Services

**Summary**

The purpose of this report is to advise Council of applications for planning approval determined under delegated authority during the month of September and October 2011.

**Background**

At the Council meeting held on 24 October 2006, Council resolved as follows: *“That Council receive a monthly report as part of the Agenda, commencing at the November 2006 meeting, on the exercise of Delegated Authority from Development Services under Town Planning Scheme No. 6, as currently provided in the Councillor's Bulletin.”*

The great majority (over 90%) of applications for planning approval are processed by the Planning Officers and determined under delegated authority rather than at Council meetings. This report provides information relating to the applications dealt with under delegated authority.

**Comment**

Council Delegation DC342 “Town Planning Scheme No. 6” identifies the extent of delegated authority conferred upon City officers in relation to applications for planning approval. Delegation DC342 guides the administrative process regarding referral of applications to Council meetings or determination under delegated authority.

### **Consultation**

During the month of September 2011, fifty-one (51) development applications were determined under delegated authority at **Attachment 10.6.9(a)**.

During the month of October 2011, fifty-two (52) development applications were determined under delegated authority at **Attachment 10.6.9(b)**.

### **Policy and Legislative Implications**

The issue has no impact on this particular area.

### **Financial Implications**

The issue has no impact on this particular area.

### **Strategic Implications**

The report is aligned to Strategic Direction 6 “Governance” within the Council’s Strategic Plan. Strategic Direction 6 is expressed in the following terms: *Ensure that the City’s governance enables it to both respond to the community’s vision and deliver on its service promises in a sustainable manner.*

### **Sustainability Implications**

Reporting of Applications for Planning Approval Determined under Delegated Authority contributes to the City’s sustainability by promoting effective communication.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.9</b>
--

That the report and **Attachments 10.6.9(a)** and **10.6.9(b)** relating to delegated determination of planning applications during the months of September and October 2011, be received.

CARRIED EN BLOC RESOLUTION

<b>10.6.10      Annual Report 2010/2011</b>
---

Location:	City of South Perth
Applicant:	Council
File Ref:	KM/302
Date:	4 October 2011
Author:	Kay Russell
Reporting Officer	Phil McQue, Governance and Administration Manager

### **Summary**

The purpose of this report is to present for adoption, the Annual Financial Statements as at 30 June 2011 and the Annual Report for the City of South Perth for the year ended 30 June 2011 and to set the date for the Annual Electors’ Meeting.

### **Background**

Section 5.53 of the *Local Government Act* requires that a local government prepare an annual report for each financial year that is adopted by Council. The Auditors report has been received and is an ‘unqualified report’. The Audit Report and the Audit Management Letter relating to the 2010/11 Financial Statements was the subject of a report to the Audit and Governance Committee Meeting held 8 November 2011.

**Comment**

The Annual Report incorporating the Financial Statements is at **Attachment 10.6.10**. Following adoption at the Council meeting, Public Notice is required to be given that the document is available for inspection. An Annual Meeting of Electors is also required to be held within 56 days after receiving the Annual Report.

The 2010/2011 Annual Report incorporating the financial statements for the year, contains all of the necessary statutory requirements and has been designed with commercial principles in mind, ie it contains the full set of financial statements. Copies of the Annual Report will be produced and will be made available prior to the Annual Electors Meeting.

The audit for the 2010/2011 financial year has been completed and the Auditors' Statement is contained in the report in compliance with the Legislation.

It is proposed that the Annual Meeting of Electors be held on Wednesday 7 December 2011. The date set will allow time for the Annual Report to be printed and to be available for inspection during the statutory advertising period (minimum 14 days) but within 56 days of the Council Meeting to be held on 22 November 2011.

**Consultation**

A Public Notice will be placed in the Peninsula Snapshot column featured in the Southern Gazette newspaper advising of the availability of the Annual Report for public inspection together with details of the proposed Annual Electors Meeting. A suitable notice will also be placed on the City Noticeboard and will be displayed at the City Libraries as well as appearing on the City website.

**Policy and Legislative Implications**

Adoption of the Annual Report and holding of Annual Electors' Meeting required by the *Local Government Act 1995*.

**Financial Implications**

Nil

**Strategic Implications**

Action required in accordance with the *Local Government Act*. The recommendation of this report is consistent with Strategic Direction 6.1 of the Council's Strategic Plan. ***Implement management frameworks, performance management and reporting systems to drive and improve organisational performance.***

**Sustainability Implications**

Reporting of the adoption of the Annual Report and scheduling an Annual Electors Meeting contributes to the City's sustainability by promoting effective communication.

<p><b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.10</b></p>
--

That....

- (a) the City of South Perth Annual Report at **Attachment 10.6.10**, incorporating the financial statements for the year ended 30 June 2011 be \* adopted; and
- (b) the Annual Meeting of Electors be held on 7 December 2011.

CARRIED EN BLOC RESOLUTION  
And By Required Absolute Majority

**10.6.11 Extraordinary Election Manning Ward February 2012**

Location: City of South Perth  
Applicant: Council  
File Ref: GR/309  
Date: 24 October 2011  
Author: Kay Russell, Executive Support Officer  
Reporting Officer: Phil McQue, Manager Governance and Administration

**Summary**

Due to the resignation of Councillor Les Ozsdolay an extraordinary election needs to be conducted for the Manning Ward in the City of South Perth. The City has received written confirmation from the Western Australian Electoral Commissioner agreeing to be responsible for the conduct of a postal election with a proposed date of 23 February 2012. In accordance with the *Local Government Act 1995*, the Council needs to formally declare that the Electoral Commissioner be responsible for the conduct of the election and decide that the election be conducted as a postal election.

**Background**

Given that this vacancy occurred immediately after the recent Local Government Elections on 15 October 2011, the City is required to hold an extraordinary election. The term for this vacancy will expire in October 2013.

Section 4.20 of the *Local Government Act 1995* (the Act) enables Council to appoint the Electoral Commissioner to conduct the election. The Act requires that this must be done at least 80 days prior to the election date.

Pursuant to section 4.61 of the Act, Council may determine that the election be conducted as a postal election. Section 4.61 requires that this decision must be made after or in conjunction with the decision to appoint the Electoral Commissioner.

The City has received written confirmation from the Electoral Commissioner agreeing to be responsible for the conduct of the elections, conditional on the proviso that Council also decides to have the election undertaken as a postal election.

The Electoral Commissioner has proposed the following indicative timetable:

- 15 December 2011: Electoral Commissioner to appoint a Returning Officer
- 29 December 2011: CEO to give State-wide Public Notice of time and date of close of enrolments
- 29 December 2011: Advertisements to commence for nominations
- 04 January 2012: Close of Roll
- 10 January 2012: Nominations Open
- 17 January 2012: Close of Nominations
- 04 February 2012: Returning Officer to give State-wide Public Notice of election
- 23 February 2012: Election Day

The Commissioner has estimated the cost of the extraordinary at \$15,000 based on the following assumptions:

- 4,109 electors;
- Response rate of approximately 35%;
- 1 vacancy; and
- Count to be conducted at the City's offices.

**Comment**

Part 4 of the *Local Government Act* sets out the requirements for the conduct of local government elections. Section 4.20 of the Act enables Council to appoint the Electoral Commissioner to conduct elections. For the last four ordinary elections and the extraordinary election for McDougall Ward in 2010, Council has appointed the Electoral Commissioner to conduct the election.

Under section 4.60 Council may decide to have the election conducted as a postal election. The last four ordinary elections and the 2010 McDougall Ward by-election were conducted as postal elections.

It is recommended that Council engage the Electoral Commissioner to conduct the 2012 Extraordinary Election for the Manning Ward and that it be conducted as a postal election.

**Consultation**

The WA Electoral Commission has been consulted on the conduct of the 2012 extraordinary election for the Manning Ward.

**Policy and Legislative Implications**

The conduct of local government elections is regulated under Part 4 of the *Local Government Act*.

**Financial Implications**

The estimated cost by the WA Electoral Commission for the 2012 extraordinary election is \$15,000 inclusive of GST. This estimate does not include non-statutory advertising or one local government staff member to work at the polling place on election day. The cost will be provided in the first quarter budget review.

**Strategic Implications**

The proposal is consistent with Strategic Goal 6: Governance *“Ensure that the City’s governance enables it to respond to the community’s vision and deliver its service promises in a sustainable manner.”*

**Sustainability Implications**

Having the Electoral Commissioner conduct the 2012 extraordinary election promotes a transparent and objective election process to better serve the community.

<p><b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.11</b></p>
--

That...

- (a) pursuant to section 4.9 of the *Local Government Act 1995*, the Council fix Thursday 23 February 2012 as the date for the Extraordinary Election;
- (b) in accordance with section 4.20(4) of the *Local Government Act 1995*, the Council declares\* the Electoral Commissioner to be responsible for the conduct of the extraordinary election; and
- (c) in accordance with section 4.61(2) of the *Local Government Act 1995*, the Council decides\* that the method of conducting the extraordinary election will be as a postal election.

CARRIED EN BLOC RESOLUTION  
And By Required Absolute Majority

<b>10.6.12 Council Delegates - Rivers Regional Council &amp; Swan River Trust Advisory Committee</b>
--

Location:	City of South Perth
Applicant:	Council
File Ref:	GO/109
Date:	2 November 2011
Author:	Kay Russell, Executive Support Office
Reporting Officer:	Phil McQue, Manager Governance and Administration

### **Summary**

The purpose of this report in the first instance, is to seek endorsement for a change in the Deputy Delegate to the Rivers Regional Council appointed at the Special Council Meeting held 18 October 2011, and secondly to nominate a Delegate to represent Council on the Swan River Trust 'River Protection Strategy Advisory Committee'.

### **Background**

#### Rivers Regional Council Deputy Delegate

At the Special 'Swearing-In' Council Meeting held 18 October 2011 - at Item 3.4 'Appointment of Delegates to External Organisations' - Council appointed Crs Cala and Trent as Delegates and Cr Gleeson as Deputy Delegate to the Rivers Regional Council (RRC). Following the election of the delegates at the Special Council meeting, Cr Gleeson and Cr Hawkins-Zeeb have advised the CEO that they have come to an agreement whereby Cr Hawkins-Zeeb replaces Cr Gleeson as Deputy Delegate to the RRC. As a result of this, Council should review the appointment of Deputy Delegate to the RRC

#### Delegate to River Protection Strategy Advisory Committee

In 2008 the Swan River Trust, in planning for the future management of the Swan/Canning Rivers, and under the *Swan and Canning Rivers Management Act 2006*, prepared a River Protection Strategy and Management Program for the newly-created Riverpark, that is, the rivers and foreshore areas.

The Strategy provides an agreed vision for sustainable management of the Riverpark through establishing:

- clear understanding of roles and responsibilities;
- clarification of the policy framework;
- agreement on values and priority issues; and
- commitment to management actions to achieve key objectives.

The Advisory Committee's primary role is to advise the Swan River Trust on the development of the River Protection Strategy and management program for the Swan and Canning rivers.

From 2009, the River Protection Strategy Advisory Committee (RPSAC) has overseen the building of the Strategy by providing advice and guidance. Advisory Committee members have facilitated broader participation through 'technical' experts including ecological and social scientists, land owners, Noongar representatives, planners and sporting associations. General agreement has been reached on the values to be protected, organisational responsibilities and management responses to key issues.

### **Comment**

#### Rivers Regional Council (RRC).

There are two obvious courses of action that Council can take:

1. Following the written agreement from the current Deputy Delegate to the Rivers Regional Council, Cr Bill Gleeson, Council endorse the appointment of Cr Sharron Hawkins-Zeeb as the Deputy Delegate to the Rivers Regional Council in place of Cr Gleeson.
2. Accept Cr Gleeson's resignation as Deputy Delegate to the RRC and conduct fresh elections for the position of Deputy Delegate.

#### River Protection Strategy Advisory Committee

The Swan River Trust is seeking Elected Member representation on the River Protection Strategy Advisory Committee (RPSAC). The Advisory Committee meets on a 'needs basis' - no set day or time is in place. No sitting fees are involved.

There is some relationship between this Committee and the South Eastern Regional Centre for Urban Landcare Group (SERCUL) and the Two Rivers Catchment (TRC) Group. Council's delegates to these two groups are:

- SERCUL - Member Cr Gleeson and Deputy Cr Hawkins-Zeeb; and
- TRC - Member Cr Reid and Deputy Cr Gleeson.

### **Consultation**

Council decision required to nominate Members to external groups / boards / committees.

### **Policy Implications**

Consistent with Policy P670 'Delegates from Council'

### **Financial Implications**

Minor representation costs possible.

### **Strategic Implications**

The report aligns to Strategic Direction 6 of the Strategic Plan - *Governance – Ensure that the City's governance enables it to both respond to the community's vision and deliver on its service promises in a sustainable manner.*

### **Sustainability Implications**

Appointing Delegates from Council to External Organisations contributes to the City's sustainability by promoting effective communication.

**OFFICER RECOMMENDATION ITEM 10.6.12**

That....

- (a) Cr Hawkins-Zeeb be appointed as the Deputy Delegate to the Rivers Regional Council; and
- (b) Council nominate (Council Member) as the Delegate to the Swan River Trust "River Protection Strategy Advisory Committee".

**COUNCIL DECISION ITEM 10.6.12(a)**

Moved Cr Trent, Sec Cr Skinner

That Cr Hawkins-Zeeb be appointed as the Deputy Delegate to the Rivers Regional Council.

CARRIED (11/0)

NOMINATION - DELEGATE TO SWAN RIVER TRUST

The Mayor called for nominations. Cr Lawrance nominated Mayor Doherty. Mayor Doherty accepted.

**COUNCIL DECISION ITEM 10.6.12(b)**

Moved Cr Lawrance, Sec Cr Trent

That Council nominates Mayor Doherty as the Delegate to the Swan River Trust "River Protection Strategy Advisory Committee".

CARRIED (11/0)

**10.7 MATTERS REFERRED FROM AUDIT AND GOVERNANCE COMMITTEE MEETING HELD 8 NOVEMBER 2011**

**10.7.1 Audit and Governance Committee Recommendations from Committee Meeting held 8 November 2011**

Location:	City of South Perth
Applicant:	Council
File Ref:	GO/108
Date:	9 November 2011
Author:	Kay Russell, Executive Support Officer
Reporting Officer:	Phil McQue, Governance and Administration Manager

**Summary**

The purpose of this report is to enable Council to consider recommendations arising from the Audit and Governance Committee meeting held on 8 November 2011.

**Background**

The Committee was established by Council in recognition of the importance of its audit functions and to monitor and improve the City's corporate governance framework. As the Committee does not have delegated authority it may only make recommendations to Council.

The Minutes of the Committee meeting held on 11 May 2011 are at **Attachment 10.7.1**. The background to the Committee's recommendations, which incorporate the officer reports, are set out in the Minutes.



The following items, considered by the Committee, require a Council decision:

- (a) Auditors Report /Management Letter
- (b) Repeal Local Law 2011 (Bee Keeping and Nuisances)
- (c) Review of Health Local Law 2002
- (d) Policy P667 “Member Entitlements”

**Comment**

- (a) **Auditors Report / Management Letter** (*Item 6.1 Audit & Governance Committee*)

Committee Recommendation

That ....

- (a) the Auditors Report as at 30 June 2011 at Attachment 6.1(a) be received;
- (b) the Audit Management Letter for the 2011/2012 financial year as submitted by the City’s Auditors, Macri Partners, Certified Practicing Accountants at *Confidential* Attachment 6.1(b) be received; and
- (c) the proposed actions in response to the matters noted in the Management Letter be noted and endorsed.

Comment

At the meeting the CEO reported that although the City’s Auditors were invited, they were unable to attend the Audit and Governance Committee meeting held on 8 November 2011. He further stated that they could be invited to attend the next meeting if the Audit and Governance Committee so wished.

The Committee requested that:

- the CEO arrange for the Auditors to attend the next meeting of the Audit and Governance Committee; and
- it be noted in the Minutes that the Committee was extremely disappointed at the lack of any representation from the City’s Auditors at the Committee meeting held 8 November 2011.

- (b) **Repeal Local Law 2011 (Bee Keeping and Nuisances)** (*Item 6.3 Audit & Governance Committee*)

Committee Recommendation

That....

- (a) in accordance with section 3.12(4) of the *Local Government Act 1995*, the Repeal Local Law 2011 be adopted, subject to various other amendments shown as ‘marked up’ on Attachment 6.3;
- (b) in accordance with s3.12(5) of the *Local Government Act 1995*, the local law be published in the *Government Gazette* and a copy sent to the Minister for Local Government;
- (c) after Gazettal, in accordance with s3.12(6) of the *Local Government Act 1995*, local public notice be given:
  - (i) stating the title of the local law;
  - (ii) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - (iii) advising that copies of the local law may be inspected or obtained from the City office.
- (d) following Gazettal, in accordance with the *Local Laws Explanatory Memoranda Directions* as issued by the Minister on 12 November 2010, a copy of the Repeal Local Law and a duly completed explanatory memorandum signed by the Mayor and Chief Executive Officer be sent to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation.

Comment

The City is presently undergoing a process to review and update its suite of Local Laws. The City's Health Local Law adequately provides for all the matters covered in the City's Bee Keeping and Nuisances Local Laws made in 1985. They are therefore no longer required.

(c) **Review of Health Local Law 2002** (*Item 6.5 Audit & Governance Committee*)

Committee Recommendation

The Audit and Governance Committee recommends that with respect to the Health Local Law 2002, State-wide public notice be given stating that:

- (a) the City proposes to review the local law;
- (b) a copy of the local law may be inspected or obtained at any place specified in the notice; and
- (c) submissions about the local law may be made to the City before a day to be specified in the Notice, being a day that is not less than 6 weeks after the Notice is given.

Comment

Section 3.16 of the *Local Government Act 1995* requires that the City undertake a review of each of its local laws within an eight year period and as such the City's Health Local Law 2002 is required to be reviewed. A new Public Health Act is currently under consideration and it is therefore proposed that there be no amendments to the City's Health Local Law during the statutory review process. Following the proclamation of the new *Public Health Act*, it is then proposed to undertake a comprehensive review of the City's Health Local Law to reflect any new legislative requirements.

(d) **Policy P667 "Member Entitlements"** (*Item 6.6 Audit & Governance Committee*)

Committee Recommendation

That the Audit and Governance Committee recommends that Council adopts modified Policy P667 'Member Entitlements' at Attachment 6.6(a), with:

- 'minor' modifications under the heading *Conference Attendance*; and
- the addition of the heading, as modified, *AICD Directors Training Course Attendance*

Comment

Following discussion Policy P667 'Member Entitlements' was further modified under the heading of *AICD Directors Training Course Attendance* to include a 'timeframe' for attendance which is consistent with Conference Attendance and Travel Policy P669.

**Consultation**

Section 3.12(3) of the *Local Government Act 1995* requires the local government to give State-wide public notice stating that the local government proposes to make a local law the purpose and effect of which is summarised in the notice.

If adopted by Council, State wide and local public notice will be given seeking public comment for a period of at least 6 weeks and copies made available to interested persons to inspect. The City will also advertise via its website, noticeboards and local newspaper.

A copy of the proposed local law must also be provided to the Minister for Local Government.

The submissions will be brought back to Council for consideration, after which it may make the local law. If as a result of public comments, there are significant amendments to the proposed local law, then the advertising process must re-commence.

**Policy and Legislative Implications**

The report accurately records the policy and legislative implications of the matters contained therein. The process required to be used when adopting or amending a local law is set out in section 3.12 of the *Local Government Act 1995*.

**Financial Implications**

There will be some minor administrative expenses involved in the initial implementation of the proposed new local law.

**Strategic Implications**

This matter relates to Strategic Direction 6.1 identified within Council's Strategic Plan 2010-2015, which is expressed in the following terms: *Implement management frameworks, performance management and reporting systems to drive and improve organisational performance.*

**Sustainability Implications**

This report is aligned to the City's sustainability strategy and policies.

<b>OFFICER / COMMITTEE RECOMMENDATION AND COUNCIL DECISION ITEM 10.7.1</b>
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The Audit and Governance Committee recommends that Council adopt the following recommendations of the Committee Meeting held 8 November 2011:

**(A) Auditors Report / Management Letter**

That ....

- (a) the Auditors Report as at 30 June 2011 at **Attachment 10.7.1(A)(a)** be received;
- (b) the Audit Management Letter for the 2011/2012 financial year as submitted by the City's Auditors, Macri Partners, Certified Practicing Accountants at **Confidential Attachment 10.7.1(A)(b)** be received; and
- (c) the proposed actions in response to the matters noted in the Management Letter be noted and endorsed.

CARRIED EN BLOC RESOLUTION

**(B) Repeal Local Law 2011 (Bee Keeping and Nuisances)**

That....

- (a) in accordance with section 3.12(4) of the *Local Government Act 1995*, the Repeal Local Law 2011 be adopted, subject to various other amendments shown as ‘marked up’ on **Attachment 10.7.1(B)**;
- (b) in accordance with s3.12(5) of the *Local Government Act 1995*, the local law be published in the *Government Gazette* and a copy sent to the Minister for Local Government;
- (c) after Gazettal, in accordance with s3.12(6) of the *Local Government Act 1995*, local public notice be given:
  - (i) stating the title of the local law;
  - (ii) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - (iii) advising that copies of the local law may be inspected or obtained from the City office.
- (d) following Gazettal, in accordance with the *Local Laws Explanatory Memoranda Directions* as issued by the Minister on 12 November 2010, a copy of the Repeal Local Law and a duly completed explanatory memorandum signed by the Mayor and Chief Executive Officer be sent to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation.

CARRIED EN BLOC RESOLUTION  
And By Required absolute Majority

**(C) Review of Health Local Law 2002**

The Audit and Governance Committee recommends that with respect to the Health Local Law 2002, State-wide public notice be given stating that:

- (a) the City proposes to review the local law;
- (b) a copy of the local law may be inspected or obtained at any place specified in the notice; and
- (c) submissions about the local law may be made to the City before a day to be specified in the Notice, being a day that is not less than 6 weeks after the Notice is given.

CARRIED EN BLOC RESOLUTION  
And By Required absolute Majority

**(D) Policy P667 “Member Entitlements”**

That the Audit and Governance Committee recommends that Council adopts modified Policy P667 ‘Member Entitlements’ at **Attachment 10.7.1(D)**, with:

- ‘minor’ modifications under the heading *Conference Attendance*; and
- the addition of the heading, as modified, *AICD Directors Training Course Attendance*

CARRIED EN BLOC RESOLUTION

**11. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

**12.1 *draft* Local Housing Strategy - Extension to Submission Deadline : Cr Cala**

I hereby give notice that I intend to move the following Motion at the Council Meeting to be held on 22 November 2011.

MOTION

That the deadline for submission of comments on the *Draft* Local Housing Strategy be extended to Tuesday 31 January 2012.

COMMENT

The proposed density coding changes to Town Planning Scheme No.6 contained in the *draft* Local Housing Strategy will provide for greater opportunities for greater density in the City, but it also has the potential to bring about far reaching changes to the quality and lifestyle of its residents. It is therefore incumbent on the City to ensure that all residents not only receive notice and details of these proposals, but provide them with sufficient time to consider the proposals, and draft a submission.

There have been problems in the distribution of notices over significant areas of the City and many residents including myself only received a notice last week. Public meetings begin in the following week and insufficient time is being given for residents to comment. While the comment period has been extended to Friday 16 December to take the delays in distribution into account, this is still insufficient time, given the proximity to Christmas.

COMMENT CEO

In accordance with Clause 5.3(4)(d) of Standing Orders Local Law 2007 the Chief Executive Officer comments as follows:

Extending the advertising period over the Christmas and New Year period is contrary to Council's policy P355 "Consultation on Planning Proposals" which states at section 9(e) :

*In recognition of the special nature of the popular holiday period between mid-December and mid-January, advertising or neighbour consultation required for any planning proposal other than development applications, will not be undertaken in this period. Any such advertising or consultation shall be timed so as to conclude prior to mid-December or alternatively not to commence until mid- January.*

However, the principle of allowing the community plenty of time to consider the *draft* Local Housing Strategy and provide considered feedback is supported and in recognition of this, Information Sessions for the community have been postponed until after mid January 2012..

**COUNCIL DECISION ITEM 12.1**

Moved Cr Cala, Sec Cr Trent

That the deadline for submission of comments on the *Draft* Local Housing Strategy be extended to Tuesday 31 January 2012.

CARRIED (11/0)

**13. QUESTIONS FROM MEMBERS**

**13.1. Response to Previous Questions from Members Taken on Notice**

Nil

**13.2 Questions from Members**

**13.2.1 Response to Correspondence .....Cr Gleeson**

Summary of Question

In relation to two items of correspondence submitted to Mayor Doherty, when can I expect a response?

Summary of Response

The Mayor stated she had responded via email to all Council Members in relation to the correspondence referred to.

**14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**  
Nil

**15. MEETING CLOSED TO PUBLIC**

**15.1 Matters for which the Meeting May be Closed.**

**Note:** The Mayor sought an indication from Members as to whether they wished to discuss *Confidential* Item 15.1.1. As there was no debate proposed by Council Members the meeting was **not** closed to the public.

**15.1.1 City of South Perth Volunteer of the Year Awards 2011**  
***CONFIDENTIAL REPORT***

Location: City of South Perth  
Applicant: Council  
File Ref: CR/109  
Date: 1 November 2011  
Author: Natasha Hughes, Community Development Officer  
Reporting Officer: Sandra Watson, Manager Community Culture & Recreation

**Note:** *Confidential* Report circulated separately

**OFFICER RECOMMENDATION**  
**AND COUNCIL DECISION ITEM 15.1.1**

Moved Cr Trent, Sec Cr Skinner

That, following consideration of the nominations received for the 2011 City of South Perth Volunteer of the Year Awards, the winners as presented in the recommendation of *Confidential* Report Item 15.1.1 of the November 2011 Council Agenda, be approved.

CARRIED (11/0)

**15.2 Public Reading of Resolutions that may be made Public.**

The Council resolution at Item 15.1.1 was not read out.

**16. CLOSURE**

The Mayor thanked everyone for their attendance and closed the meeting at 8.38pm

**DISCLAIMER**

The minutes of meetings of the Council of the City of South Perth include a dot point summary of comments made by and attributed to individuals during discussion or debate on some items considered by the Council.

The City advises that comments recorded represent the views of the person making them and should not in any way be interpreted as representing the views of Council. The minutes are a confirmation as to the nature of comments made and provide no endorsement of such comments. Most importantly, the comments included as dot points are not purported to be a complete record of all comments made during the course of debate. Persons relying on the minutes are expressly advised that the summary of comments provided in those minutes do not reflect and should not be taken to reflect the view of the Council. The City makes no warranty as to the veracity or accuracy of the individual opinions expressed and recorded therein.

**These Minutes were confirmed at a meeting on 13 December 2011**

Signed \_\_\_\_\_  
**Chairperson at the meeting at which the Minutes were confirmed.**

## 17. RECORD OF VOTING

22/11/2011 7:27:50 PM

### **Amendment Motion Item 7.1...Passed 9/2**

Yes: Mayor Sue Doherty, Cr Veronica Lawrance, Cr Sharron Hawkins Zeeb, Cr Kevin Trent, Cr Fiona Reid, Cr Betty Skinner, Cr Rob Grayden, Cr Peter Howat, Cr Colin Cala

No: Cr Ian Hasleby, Cr Bill Gleeson

Absent: Cr Glenn Cridland, Vacant, Casting Vote

22/11/2011 7:30:01 PM

### **Item 7.1.1 - 7.1.4 Motion Passed 11/0**

Yes: Mayor Sue Doherty, Cr Veronica Lawrance, Cr Ian Hasleby, Cr Bill Gleeson, Cr Sharron Hawkins Zeeb, Cr Kevin Trent, Cr Fiona Reid, Cr Betty Skinner, Cr Rob Grayden, Cr Peter Howat, Cr Colin Cala

No: Absent: Cr Glenn Cridland, Vacant, Casting Vote

22/11/2011 7:31:47 PM

### **Item 7.2.1 - 7.2.3 Motion Passed 11/0**

Yes: Mayor Sue Doherty, Cr Veronica Lawrance, Cr Ian Hasleby, Cr Bill Gleeson, Cr Sharron Hawkins Zeeb, Cr Kevin Trent, Cr Fiona Reid, Cr Betty Skinner, Cr Rob Grayden, Cr Peter Howat, Cr Colin Cala

No: Absent: Cr Glenn Cridland, Vacant, Casting Vote

22/11/2011 7:37:45 PM

### **En Bloc Item 9.0 ..Motion Passed 11/0**

Yes: Mayor Sue Doherty, Cr Veronica Lawrance, Cr Ian Hasleby, Cr Bill Gleeson, Cr Sharron Hawkins Zeeb, Cr Kevin Trent, Cr Fiona Reid, Cr Betty Skinner, Cr Rob Grayden, Cr Peter Howat, Cr Colin Cala

No: Absent: Cr Glenn Cridland, Vacant, Casting Vote

22/11/2011 7:42:56 PM

### **Item 10.0.1 - Officer Recommendation Motion LOST 4/7**

Yes: Mayor Sue Doherty, Cr Veronica Lawrance, Cr Ian Hasleby, Cr Fiona Reid

No: Cr Bill Gleeson, Cr Sharron Hawkins Zeeb, Cr Kevin Trent, Cr Betty Skinner, Cr Rob Grayden, Cr Peter Howat, Cr Colin Cala

Absent: Cr Glenn Cridland, Vacant, Casting Vote

22/11/2011 7:44:24 PM

### **Item 10.0.1 Alt.Motion Passed 8/3**

Yes: Cr Bill Gleeson, Cr Sharron Hawkins Zeeb, Cr Kevin Trent, Cr Fiona Reid, Cr Betty Skinner, Cr Rob Grayden, Cr Peter Howat, Cr Colin Cala

No: Mayor Sue Doherty, Cr Veronica Lawrance, Cr Ian Hasleby

Absent: Cr Glenn Cridland, Vacant, Casting Vote

22/11/2011 7:53:35 PM

### **Amendment Item 10.0.2 - Motion Passed 6/5**

Yes: Cr Bill Gleeson, Cr Sharron Hawkins Zeeb, Cr Betty Skinner, Cr Rob Grayden, Cr Peter Howat, Cr Colin Cala

No: Mayor Sue Doherty, Cr Veronica Lawrance, Cr Ian Hasleby, Cr Kevin Trent, Cr Fiona Reid

Absent: Cr Glenn Cridland, Vacant, Casting Vote

22/11/2011 7:54:24 PM

### **Amended Motion Item 10.0.2 - Motion Passed 7/4**

Yes: Mayor Sue Doherty, Cr Veronica Lawrance, Cr Ian Hasleby, Cr Bill Gleeson, Cr Sharron Hawkins Zeeb, Cr Peter Howat, Cr Colin Cala

No: Cr Kevin Trent, Cr Fiona Reid, Cr Betty Skinner, Cr Rob Grayden

Absent: Cr Glenn Cridland, Vacant, Casting Vote



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22/11/2011 8:01:27 PM

**Item 10.3.3 Motion Passed 11/0**

Yes: Mayor Sue Doherty, Cr Veronica Lawrance, Cr Ian Hasleby, Cr Bill Gleeson, Cr Sharron Hawkins Zeeb, Cr Kevin Trent, Cr Fiona Reid, Cr Betty Skinner, Cr Rob Grayden, Cr Peter Howat, Cr Colin Cala

No: Absent: Cr Glenn Cridland, Vacant, Casting Vote

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22/11/2011 8:17:34 PM

**Item 10.3.4 - Motion Passed 8/2**

Yes: Mayor Sue Doherty, Cr Bill Gleeson, Cr Kevin Trent, Cr Fiona Reid, Cr Betty Skinner, Cr Rob Grayden, Cr Peter Howat, Cr Colin Cala

No: Cr Veronica Lawrance, Cr Ian Hasleby

Absent: Cr Glenn Cridland, Cr Sharron Hawkins Zeeb, Vacant, Casting Vote

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22/11/2011 8:20:09 PM

**Item 10.6.12(a) - Motion Passed 11/0**

Yes: Mayor Sue Doherty, Cr Veronica Lawrance, Cr Ian Hasleby, Cr Bill Gleeson, Cr Sharron Hawkins Zeeb, Cr Kevin Trent, Cr Fiona Reid, Cr Betty Skinner, Cr Rob Grayden, Cr Peter Howat, Cr Colin Cala

No: Absent: Cr Glenn Cridland, Vacant, Casting Vote

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22/11/2011 8:21:11 PM

**Item 10.6.12(b) - Motion Passed 11/0**

Yes: Mayor Sue Doherty, Cr Veronica Lawrance, Cr Ian Hasleby, Cr Bill Gleeson, Cr Sharron Hawkins Zeeb, Cr Kevin Trent, Cr Fiona Reid, Cr Betty Skinner, Cr Rob Grayden, Cr Peter Howat, Cr Colin Cala

No: Absent: Cr Glenn Cridland, Vacant, Casting Vote

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22/11/2011 8:26:18 PM

**Item 12.1 - Motion Passed 11/0**

Yes: Mayor Sue Doherty, Cr Veronica Lawrance, Cr Ian Hasleby, Cr Bill Gleeson, Cr Sharron Hawkins Zeeb, Cr Kevin Trent, Cr Fiona Reid, Cr Betty Skinner, Cr Rob Grayden, Cr Peter Howat, Cr Colin Cala

No: Absent: Cr Glenn Cridland, Vacant, Casting Vote

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22/11/2011 8:28:42 PM

**Item 15.1.1 - Motion Passed 11/0**

Yes: Mayor Sue Doherty, Cr Veronica Lawrance, Cr Ian Hasleby, Cr Bill Gleeson, Cr Sharron Hawkins Zeeb, Cr Kevin Trent, Cr Fiona Reid, Cr Betty Skinner, Cr Rob Grayden, Cr Peter Howat, Cr Colin Cala

No: Absent: Cr Glenn Cridland, Vacant, Casting Vote